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Vol. VI

TRANSCRIPT OF RECORD

133

Supreme Court of the United States

OCTOBER TERM, 1926

No. 249

273

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BEECH-NUT PACKING COMPANY, PETITIONER,

vs.

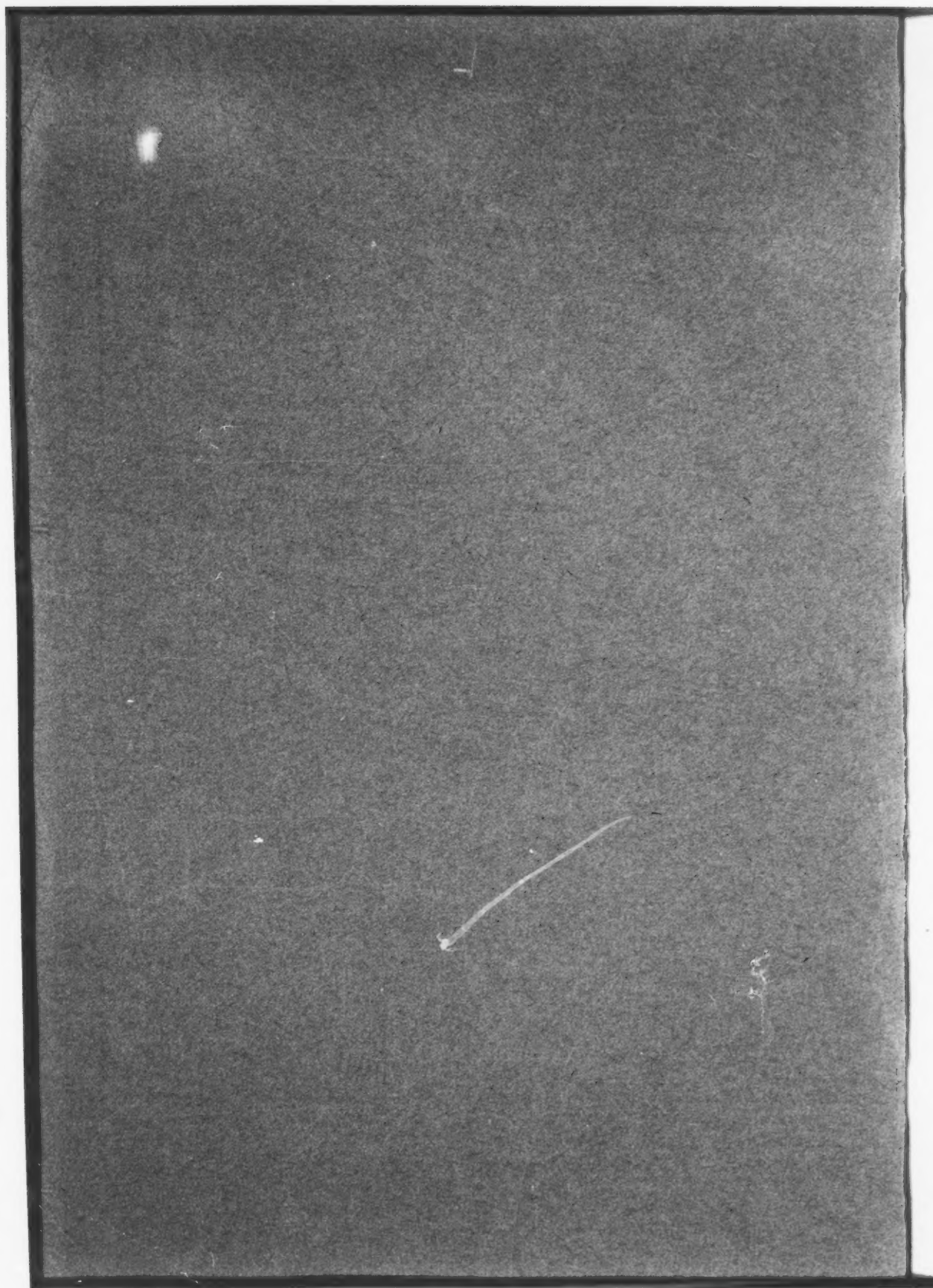
P. LOBILLARD COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT
COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED DECEMBER 8, 1926

CERTIORARI GRANTED JANUARY 11, 1927

(81,557)



(31,557)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926

No. 249

BEECH-NUT PACKING COMPANY, PETITIONER,

vs.

P. LORILLARD COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT
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VOLUME VI

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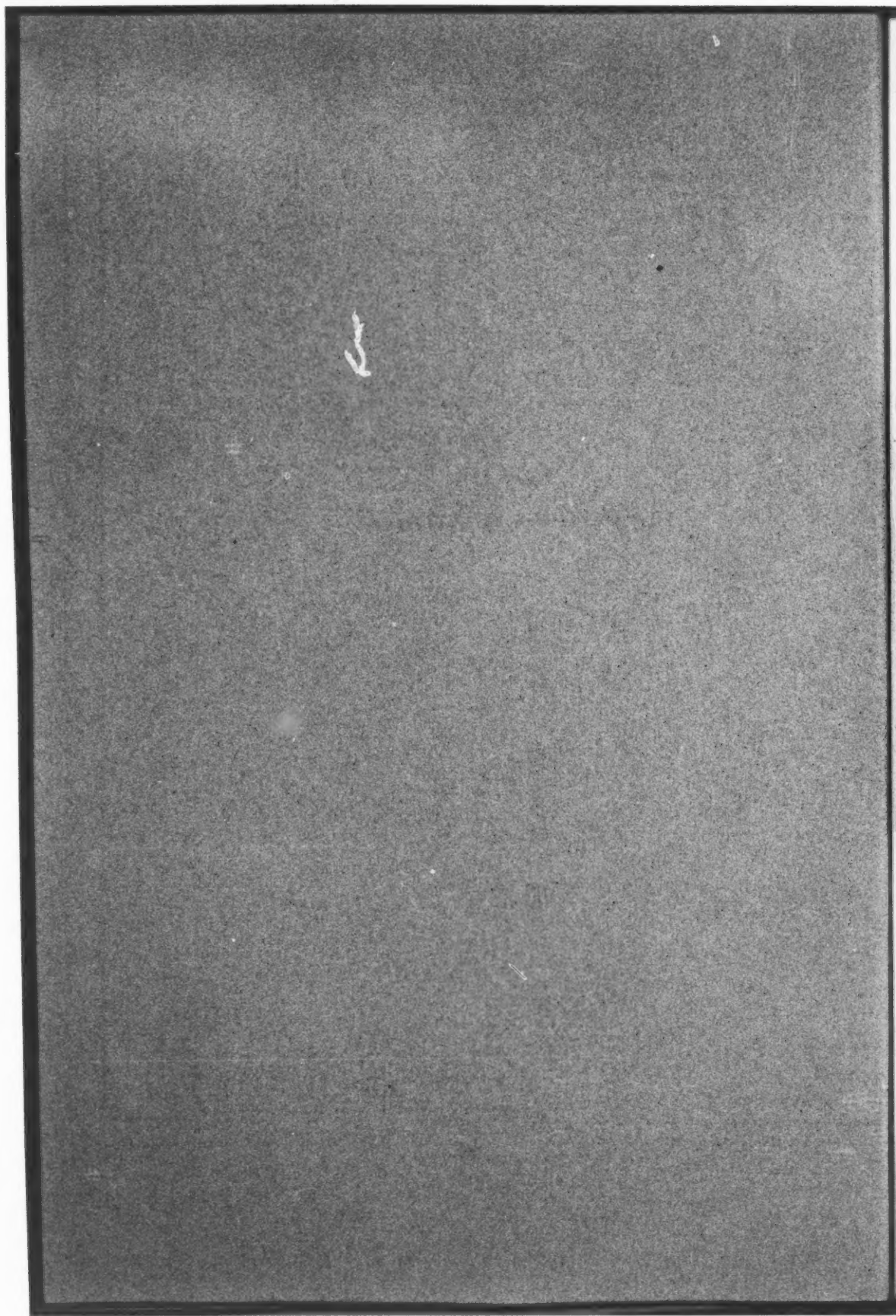
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Part I.

PLAINTIFF'S EXHIBITS.



**PLAINTIFF'S EXHIBIT NO. 1—PACKAGE OF
BEECH-NUT CIGARETTES.**

[NOTE: Replica of lithographed wrapper and glassine
paper outer wrapper as on the Exhibit package:]



PLAINTIFF'S EXHIBIT NO. 2—PHOTOGRAPH, WEST HAVEN DRUG STORE WINDOW DISPLAY.



**PLAINTIFF'S EXHIBIT NO. 3—PACKAGE OF
BEECH-NUT SCRAP TOBACCO.**

[NOTE: The wrapper of this Exhibit package is identical with Exhibit 2 in Bill of Complaint,—which see (Plaintiff's Record, page 17). The package is identical with Defendant's Cross Exhibit No. 1, photograph of which is shown *post*.]

**PLAINTIFF'S EXHIBIT NO. 11—FAIRFIELD-AL-
LIED TOBACCO INDUSTRIES EXPOSITION LET-
TER.**

[Letterhead.]

ALLIED TOBACCO INDUSTRIES EXPOSITION,
COLISEUM, CHICAGO,
September 3rd to 10th, 1921.

Address all communications to Allied Tobacco Industries Exposition, Room
212, 457 South Dearborn Street, Chicago.

Telephone—Bloxum 1478

FRED W. FAYNE
MRS. E. WERNERMAN } Managers

June 1st, 1921.

SYRACUSE, N. Y.

Gentlemen:

Owing to the nationwide agitation against smoking and from the standpoint of self preservation all persons interested in the Tobacco business must get together and inaugurate a campaign to combat the work of the "Anti-tobacco."

To accomplish this and bring about a better understanding with the general public and thereby enroll their support in advancing the slogan "Tobacco is Harmless" it has been decided to hold the Allied Tobacco Industries Exposition in Chicago next September where

manufacturers will have the opportunity of exhibiting their cigars, cigarettes, tobaccos, pipes and allied lines to jobbers and dealers from all parts of the country, as well as to the general public.

It is also essential that manufacturers of machinery, appliances and accessories used in producing, packing and marketing of cigars, cigarettes, tobaccos, pipes and allied commodities should exhibit for the benefit of the visiting producers of these products.

During the week of the Exposition important conferences will be held, in which all trade associations have been invited to participate. The Exposition and Conferences will be advertised very extensively and everything done to bring out the greatest gathering ever held of manufacturers, jobbers, distributors and retailers.

To make the Exposition thoroughly representative of the entire industry we want your company to make an exhibit, not only for the large amount of new business you will secure, but also to help us impress upon the minds of the general public the magnitude and importance of this great industry now being bitterly attacked.

Trusting to hear promptly from you in order that we may submit diagram showing arrangement, dimensions and cost of exhibit spaces for your further consideration, we remain

Yours very truly,

ALLIED TOBACCO INDUSTRIES EXPOSITION,

FWP*IB

Manager.

PLAINTIFF'S EXHIBIT NO. 12 (A TO A-24, INCLUSIVE)—SCRAP BOOK OF CIRCULARS, LETTERS, ETC.

Plaintiff's Exhibit No. 12-A.

P. LORILLARD COMPANY

New York City, N. Y., June 22, 1921.

TAYLOR, McLEISH & Co.

Gentlemen:

We are now prepared to accept orders from our customers located in your State for BEECH-NUT 20s/200 cigarettes, our new brand, foil packed, which will be invoiced to our customers at \$6.00 per M, less 10%, less the usual 2% cash discount, and are intended to go to the retailer at \$6.00 per M less 2% for cash and to the consumer at 15¢ per package of 20 cigarettes.

As we anticipate working and advertising this brand throughout your territory effective as of July 5th, we strongly recommend that you place your order promptly for a small quantity of BEECH-NUT Cigarettes, but under no circumstances do we desire BEECH-NUT Cigarettes offered to the retail trade prior to the date herein referred to.

In the event that you do place an order for this brand we offer as an extra inducement for your salesmen to secure an immediate distribution, commencing July 5th, on BEECH-NUT Cigarettes and for them to induce retail dealers to display the same prominently on their counters, 25¢ per M or 5¢ per carton, on their sales of BEECH-NUT cigarettes during the months of July and August, 1921. However, we wish to call your particular attention to the fact that this offer is made exclusively for the benefit of your salesmen and if used otherwise, payment will be withheld. Furthermore, we respect-

fully request that none of your customers be sold at any one time a quantity in excess of 5M BEECH-NUT cigarettes, and at the expiration of the period referred to, we would appreciate your mailing a report of the sales made by each individual salesman, addressing the same to BEECH-NUT CIGARETTE DEPARTMENT, P. Lorillard Co., 119 West 40th St., New York City.

Please note that such report is to be mailed us on or before September 10, 1921, and as we have not arranged to supply blanks for this purpose, we would thank you to simply furnish by letter the names of the individual salesmen and the quantity sold by each.

We will very much appreciate your co-operation as well as such support you may see fit to give us in placing BEECH-NUT Cigarettes favorably before the public.

Very respectfully,

E. J. BUSH

FOR P. LORILLARD COMPANY, INC.

P. S. As BEECH-NUT Cigarettes have not been offered to the trade in the States of Indiana, Illinois, Wisconsin, Kentucky (except Covington and Newport) or the Northern Peninsular of Michigan, we would thank you to make no shipments or deliveries either directly or indirectly to dealers in those States until advised it will be satisfactory to do so. Your co-operation in this respect will avoid considerable embarrassment to us.

Plaintiff's Exhibit No. 12-B.

[Letterhead of
P. LORILLARD COMPANY,
119 West 40th Street.]

EJB/MJO New York, August 4, 1921.

At the time BEECH-NUT Cigarettes were introduced in your territory we offered your salesmen, as an extra inducement for them to assist in securing a quick distribution and prominent counter displays on the brand, 25¢ per thousand on their sales of BEECH-NUT Cigarettes.

On account of the very great interest and enthusiasm manifested by jobbers' salesmen in such offer and due to our having received from our customers numerous requests to renew the same, we are prompted to offer your salesmen as an extra inducement to interest dealers in selling and displaying the brand, 10¢ per thousand, or 2¢ per carton, on their sales of BEECH-NUT Cigarettes, the same effective as of this date, August 4, 1921, and continuing for a limited time only. In order to avoid congestion, we respectfully request however, that none of your customers be sold at any one time a quantity in excess of 10,000 BEECH-NUT Cigarettes.

Promptly upon receipt of notice of withdrawal of this offer, please mail to the BEECH-NUT CIGARETTE DEPARTMENT, P. Lorillard Company, 119 West 40th St., New York City, report showing the names of your salesmen and the quantity of BEECH-NUT Cigarettes sold by each during the period this offer is in effect. As we will not supply blanks for such report of sales, we would thank you to simply furnish the desired information by letter.

We will make no payment of this allowance on any BEECH-NUT cigarettes reported by you under the offer in excess of the total quantity of BEECH-NUT Cigarettes shipped by us for your account during the life of the offer—therefore, in order that your salesmen may participate to the fullest extent on their sales, it will be necessary that you have shipped by us for your account during the life of the offer as many BEECH-NUT Cigarettes as you report sold by them.

Inasmuch as BEECH-NUT Cigarettes have become firmly established in your territory and in view of the present demand for the brand, we feel that the offer of 10¢ per thousand herein mentioned will result in as much, or greater benefit to your salesmen as did our previous offer to them.

Trusting our action meets with your entire approval, and thanking you for the support you have rendered in the marketing of BEECH-NUT Cigarettes as well as for a continuation of such support, we remain,

Very respectfully,

E. J. BUSH

For P. LORILLARD COMPANY, INC.

Plaintiff's Exhibit No. 12-C.

Circular No. 1386

[Letterhead of

P. LORILLARD COMPANY,

119 West 40th Street.]

NEW YORK, October 27, 1921.

BEECH-NUT

CIGARETTES

TO OUR CUSTOMERS in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi and Louisiana:

We take pleasure in announcing that we are now in position to offer BEECH-NUT Cigarettes to our customers in the States above mentioned.

BEECH-NUT Cigarettes are foil packed in oval packages of 20, cartons of 200, and are invoiced to our customers at \$6.00 per M. less 10% trade discount and less the usual 2% cash discount, and are intended to go to the retailer at \$6.00 per M. less 2% for cash, and to the consumer at 15¢ per package of 20 cigarettes. A sample carton of BEECH-NUT Cigarettes is being mailed to you.

BEECH-NUT Cigarettes have met with unusual success in the states in which they have been offered and we predict the brand will meet with similar success in your state.

We offer as an extra inducement to encourage a full distribution being quickly secured and maintained on BEECH-NUT Cigarettes, 25¢ per M. on all BEECH-NUT Cigarettes shipped by us for your account during October, November and December, 1921, less the quantity of BEECH-NUT Cigarettes you have on hand and in transit at the close of business December 31, 1921.

It will not be necessary for you to keep account of your sales of BEECH-NUT Cigarettes during October, November and December, as all we require is that you report to us by January 5, 1922, the total quantity of BEECH-NUT Cigarettes you had on hand and in transit at the close of business December 31, 1921, and we will promptly audit your account and send check for the amount due you under this offer.

We will very much appreciate an initial order and such cooperation and support you may see fit to give us in placing BEECH-NUT Cigarettes favorably before the public in the territory covered by your salesmen.

All orders subject to acceptance by our New York Office, and if accepted will be filled at prices ruling on day of shipment.

No representative or employee of this Company has authority to change any circular, letter or price list issued by this Company.

Very respectfully,

P. LORILLARD COMPANY,
Incorporated.

Plaintiff's Exhibit No. 12-D.

OAKLAND ENQUIRER
OAKLAND, CALIFORNIA.

Office of the
President and Publisher.

July 19, 1921.

My Dear Mr. Van Wie:

I have written the enclosed editorial, which appears in the Oakland Enquirer today. This publication goes into the homes of twenty five thousand and is read by over one hundred thousand daily in this very important trans-bay section.

While owner and publisher of the Seattle Post-Intelligencer, for a period of eight years just before I took over the San Francisco Morning Call, I had the "powers

to be," while the legislature was in session at Olympia, come over to my home in Seattle on a Saturday night a few days before the adjournment, to discuss the anti-cigarette law, which I considered a ridiculous and uncalled-for piece of legislation.

I personally was instrumental in having the law repealed, for I insisted before the Post-Intelligencer supported other measures they would have to repeal this act. I believe you are familiar with these facts.

I have always felt very close to the tobacco people throughout the East as well as the Pacific Coast and have always been against this uncalled-for freak tobacco legislation.

I trust these few remarks in the Enquirer today will meet with your approval and support.

If at any time I can be of help to you and your Company, irrespective of any advertising, do not hesitate to advise us for the Enquirer which is published in this transbay section of over four hundred thousand prosperous people is a very important factor in this community.

Very truly yours,

W. W. CHAPIN,
President.

MR. STANTON E. VAN WIE,
Beechnut Cigarettes
Canajoharie, N. Y.

WWC:D

OFFICIAL PAPER OF THE CITY OF OAKLAND AND THIS TRANSBAY SECTION
COVERING A POPULATION OF OVER 450,000 PEOPLE

[Envelope.]

Return in Ten Days to
THE OAKLAND ENQUIRER
Oakland, California.

[Postmark.]
July 19, 1921, 8 P. M.
Oakland, Calif.,

Mr. Stanton E. Van Wie,
Beechnut Cigarettes,
Canajoharie, N. Y.

Plaintiff's Exhibit No. 12-E.

[From Oakland (Calif.) Enquirer of July 19, 1921.]

Editorial

Page

OAKLAND ENQUIRER

Established 1886

AN INDEPENDENT NEWSPAPER

W. W. CHAPIN, Publisher JOHN F. CONNERS, Editor

CRAZY LEGISLATION.

The State of Utah is making a strong bid for national leadership among the communities which tell the world that they do not desire enterprising men of common sense to come there to live or invest their money.

The writer was instrumental in having repealed a similar attempt of fanatics in the State of Washington to "Compound for sins they are inclined to by damning those they have no mind to." His efforts were put forth not because of any personal grievance, but because he happened to be in a position to learn how injurious to the community's growth and advancement is such silly law-making. The injuries of such crazy legislation are ten-fold more probable now than then.

Business all over the country confronts the same condition. It's a "buyer's market," for both trade and investment. Men with money to invest are not hunting opportunities. They have no need whatever to take chances in communities which by fanatic attacks upon any legitimate business virtually serve notice that no line of business or form of property is safe from confiscation through public toleration of cranks who insist upon persecuting all disagreement with their personal ideas, and are armed with the power of a penal statute.

The sum of the matter is that the tobacco business is entirely legitimate, and the cigarette end of it is notoriously conducted with scrupulous regard for public safety through cleanliness and sanitary surroundings. It has never been proved that the cigarette use of tobacco is more injurious than any other. The weight of medical testimony is the other way. Hence, anti-cigarette laws, such as those of Nebraska, Nevada, and especially Utah, may well be regarded as notice to all that these States are dominated by crazy fanatics who may be expected to go on to any excess against personal or property rights.

The Enquirer is not directly concerned with the follies of Utah. But it is directly concerned to resist, now and always, any further spread of the contagion of crazy legislation to California.

Plaintiff's Exhibit No. 12-F.

OAKLAND ENQUIRER

OAKLAND, CALIFORNIA.

Office of the
President and Publisher.

August 25, 1921.

My dear Mr. Van Wie:

Will you kindly look over the Enquirer under date of August 20th, which I am sending under separate cover? Always glad to co-operate with you and your interests.

Very truly yours,

W. W. CHAPIN,
President.

MR. STANTON E. VAN WIE,
Beechnut Cigarette Co.
Canjoharie, N. Y.

OFFICIAL PAPER OF THE CITY OF OAKLAND AND THIS TRANSBAY SECTION
COVERING A POPULATION OF OVER 450,000 PEOPLE

[Envelope.]

Return in Ten Days to
THE OAKLAND ENQUIRER
Oakland, California.

[Postmark]
OAKLAND, Calif.,
Aug. 25, 1921
5:30 P. M.

Mr. Stanton E. Van Wie,
Beechnut Cigarette Co.
Canjoharie, N. Y.

Personal.

Plaintiff's Exhibit No. 12-G.

[From Oakland (Calif.) Enquirer of August 20, 1921.]

DOWN WITH NICOTINE!

In the opinion of the W. C. T. U., my Lady Nicotine has always been a woman of easy virtue—a fit associate for none except poor old Jack Barleycorn. So it is not surprising to find the present annual convention taken up with the problem of abolishing tobacco in all its forms.

I wonder why women of a certain type are so inimical to tobacco? Is it because of a certain masculine attitude toward the weed expressed by Kipling in the immortal insult:

“A woman is only a woman,
But a good cigar is a smoke”?

Whatever it be, certain it is that some women hate tobacco with the deadly hatred of King James I who wrote the famous bit of anti-nicotine propaganda called “A Counterblast Against Tobacco.”

So intent are the white ribboners on downing the weed that one suspects them of intending to use their one million members—if they get them—to exterminate the cigar, the cigarette, the pipe and the quid, to say nothing of the wicked pinch of snuff.

Can you imagine the United States without tobacco? Or rather, can you imagine the condition which would be brought about should another amendment to the Constitution forbid tobacco as the eighteenth amendment forbids liquor?

Think of the smuggling that would go on between Cuba and this country! Think of the surreptitious sales of tobacco in the nicotian equivalent of the bootleg joint! And think, oh think how the price of Bull Durham would go up, and how we should cultivate the lucky man who had a humidor full of illegal perfectos!

The shock troops of the W. C. T. U. have their work cut out for them in this drive against the weed. But these are Amazons not easily dismayed. The "wild women" of the suffrage agitation were more spectacular but not more determined than the followers of Frances Willard.

Plaintiff's Exhibit No. 12-H.

THE PITTSBURGH POST
MORNING AND SUNDAY

THE PITTSBURGH SUN
EVENINGS EXCEPT SUNDAY

J. E. TROWER
VICE PRESIDENT AND
MANAGER OF ADVERTISING

PHILADELPHIA, PA. 7/19-1921.

MR. BARTLETT ARKELL, President
Beech-Nut Packing Co.,
Conajoharie, New York.

Dear Sir:—

Your many products suitable for our plan, prompted me writing you. Particularly, Beech-Nut Cigarettes and Beech-Nut Gum. These two articles, if entered at once would be exclusive in their line.

The Pittsburgh Post and The Pittsburgh Sun, will award cash prizes amounting to \$5,000.00 in gold to Schools, Hospitals, Churches, Lodges and Charities in Pittsburgh and surrounding territory, receiving the largest number of votes by saving the wrappers, labels, cartons, etc., from the manufactured products entered in this gigantic selling campaign.

The prime motive of the unusual campaign is to develop the sale of certain manufactured products used daily in every home, office or on the street, and to establish new fields of direct distribution, with the assurance of your goods moving rapidly from the retailer's shelf.

Beginning September—and closing sixteen weeks thereafter, large newspaper copy similar to the rough lay-out enclosed will appear in the morning, afternoon and Sunday issues of the Post and Sun, during September, October, November and December. Approximately \$7,000.00 worth of newspaper space will be used containing an illustration of your products. The Post and Sun also agree to give its news columns to such an extent as to sustain a lively and continued interest among the organizations participating for this large sum of money.

The manufacturer's share of the expenses in this campaign is \$475. One half to be paid upon the representation of the Post and Sun, showing the first announcement in the September issue; the other half within sixty days thereafter. Each product entered will be exclusive in its line.

Retail order blanks will be issued by the Post and Sun, to secure stores not handling your products. Certain days will be devoted in clubbing three or four articles together and offering extra bonus votes. This alone will stimulate and show positive proof of splendid results.

This campaign will be run by the newspaper's regular staff men, thus avoiding doubtful certainty and un-

worthy advertising promotion. Only thirty to thirty five products are essential to deliver all organs and I shall remain East until sufficient contracts are secured, at the same time take my regularly summer vacation. Kindly return the copy lay-out to the below mentioned address, but send package of your product for illustration in all campaign copy to the newspaper direct.

Yours truly,

D. J. Watson, Jr.

#2221 South 10th St., Philadelphia.

DJWatson Jr—M.

Plaintiff's Exhibit No. 121.

New York Economic Journal. circa 1900
2 columns circa

Advertisement
Advertisement

July 28th, 1901.

James Noy Cincinnati,
Cincinnati, New York.

Gentlemen:

Here is a marked copy of Drug Trade News. You will be interested in page 4.

That's the difference between an advertiser like yourself and the 4,700 druggists and confectioners who get Drug Trade News. You are chiefly interested in your own advertisement or article and those of your competitors. But the 4,700 dealers are interested in every page of Drug Trade News.

It is kept away, readable and as full of human interest as possible. We are glad to see it quoted every little while by Drug papers in other parts of the country. That sort of advertising helps us all.

It is this reader interest which makes Drug Trade News different to the usual sort of Trade paper. We are happy

ing—(and we think we are succeeding in doing it)—to make Trade News a mighty valuable advocate of better retail salesmanship as well as a dependable “second barrel” for the advertiser’s shot gun. Your Journal advertising brings down the consumer—your Journal copy and your article appearing again in Drug Trade News gives you a shot at 6,700 dealers.

All baymen know, and most amateurs admit, that the second barrel makes the bag bigger.

If you have any suggestions as to how we can make Drug Trade News more effective in backing up your New York Evening Journal advertising, we shall be glad to get them and see if we cannot follow them out.

Very truly yours,

WILLIAM N. CALLENDER,
Manager Foreign Advertising.

Plaintiff's Exhibit No. 12-J.

[Card.]

[Cut: picture.]

YOUR “AD” IN EVERY HOME

Our “STICK-ON” WINDOW LOCK POSTER should be on every window, protecting life and property and at the same time continually advertising your products. Cost small, Service continuous.

Sample and particulars upon request.

“STICK-ON” WINDOW LOCK Co.

176 Fulton Street

New York City

Phone Cortland 1427

PREVENTS RATTLING

Put on in a jiffy—no
screws or tools needed.
Keep windows up if sash
rope breaks.

[Note: Pasted to above card in this exhibit is a newspaper clipping advertisement of Beech-Nut Cigarettes.]

[Envelope.]

"STICK ON" WINDOW LOCK CO.

176 Fulton Street

New York, N. Y.

[Postmark.]

Hud. Term. Sta., N. Y.

Sep. 14, 2 p. m., 1921.

Beech Nut Co.,
Canajaharo, N Y

Mgr Adv Dept.

Sole Mfrs. of the "STICK-ON" WINDOW LOCK (Patented)

"Stick-On," Reg. U. S. Pat. Off.

Plaintiff's Exhibit No. 12-K.

[Post Card.]

Office of

THE WILLIAM TRIMBEY Co.

Wholesale Grocers

141 Hotel St.

Utica, N. Y., June 17, 1920.

Please send us:

1 Case B/N Gum

10 " Med. B/N Scrap.

Respectfully yours,

THE WILLIAM TRIMBEY Co.

[Address.]

The Beech Nut Packing Co.,
Canajoharie, N. Y.

[Letter.]

ERVIN C. FIELD

W. HENRY START

FIELD & START Inc.

WHOLESALE GROCERS

310-316 John St.

UTICA, N. Y. May 23, 1921.

BEECH-NUT PACKING Co.,

Canajoharie, N. Y.

Gentlemen:—

Kindly ship direct to Emporium Forestry Company,
Conifer, N. Y., via R. R. to Childwold, C/o Grasse River
R. R., the following:

6 Gross Beechnut scrap

and charge the same to our account.

Yours very truly,

J/D

FIELD & START, INC.,

Plaintiff's Exhibit No. 12-L.

Established 1855

AUSTIN, NICHOLS & CO.

(Incorporated)

Formerly Johnson & Murray, Inc.

Importers, Exporters, Manufacturers and Wholesale

Distributors of

FOOD PRODUCTS

UTICA, N. Y. October 21, 1921.

BEECHNUT PACKING COMPANY,

Canajoharie, N. Y.

Gentlemen;

Kindly ship to

M. J. Davenport, Eaton, N. Y.

6 Gross Beech Nut Scrap.

Yours very truly,

C.

AUSTIN, NICHOLS & COMPANY, INC.

Plaintiff's Exhibit No. 12-M.

[Letterhead of
PEARL WAIST CO., INC.]

COHOES, N. Y. June 4, 21.

BEECHNUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

I understand you are making cigaretts, if so kindly
send me a carton, and enclosed find check for \$1.50.

And oblige,

JOHN F. QUINN,
286 Remsen St.,
Cohoes, N. Y.

[Check.]

50—202

No. 116

COHOES, N. Y., June 4 1921.

THE NATIONAL BANK OF COHOES

Pay to the order of Beechnut Packing Co. \$1-50/100

Pay \$1 and 50 cts. Dollars.

JOHN F. QUINN

Plaintiff's Exhibit No. 12-N.

[Letterhead of
LAUDERBACH-ZERBY CO.
Wholesale Grocers.]

PHILIPSBURG, PA. Feb. 7, 1921

BEECHNUT PACKING Co.

Note on bill this number
and where shipped

Ship to Lauderbach-Zerby Company.

Ship via P R R Indiana, Pa. No. 1873

Mail Bill to L.-Z. Co., Philipsburg, Pa.

Terms Attach shipping receipt to bill

25 Cs Beechnut Scrap 2 Gross per case

This is in addition to our standing order

LAUDERBACH-ZERBY COMPANY.

Original bill of lading must be attached to invoice, otherwise payment will
be withheld until received

All bills of every nature for all our branches are paid from
Philipsburg office

Plaintiff's Exhibit No. 12-O.

[Letterhead of
LAUDERBACH-ZERBY CO.
Wholesale Grocers.]

PHILIPSBURG, PA. Dec. 20, 1920

BEECHNUT PACKING CO.

Note on bill this number
and where shipped

Ship to Lauderbach-Zerby Company.
Ship via BR & P Punxsutawney, Pa. No. 402
Mail Bill to L.-Z. Co., Philipsburg, Pa.
Terms Attach shipping receipt to bill

50 Cs Beechnut Scrap Tobacco 2/3 Gross
25 Cs " " " 2 "

LAUDERBACH-ZERBY COMPANY.

Original bill of lading must be attached to invoice, otherwise payment will
be withheld until received

All bills of every nature for all our branches are paid from
Philipsburg office

Plaintiff's Exhibit No. 12-P.

[Order Sheet of
VALLEY SUPPLY CO.]
Importers and Jobbers
GENERAL MERCHANDISE

A Full Line of Steamboat Supplies
Market and Water Streets

No. D 1328

PITTSBURGH, PA. 8-13 1920

BEECHNUT PACKING CO.

Canajoharie, N. Y.

Please ship

1 Case Beechnut Tobacco

Show number of order on invoice.

Render bill in duplicate to:

VALLEY SUPPLY Co.

Per MPB

Plaintiff's Exhibit No. 12-Q.

[Post Card.]

JOHNSTOWN, PA., Aug 13 1920.

Dear Sirs:

Please ship us at once via Penna R R
25 Cs. Beechnut Tobacco, 2 Grs per Cs.

Very truly yours,

DOWLING & Co.

[Address.]

BEECH NUT PACKING CO.
Canajoharie, N. Y.

[Post Card.]

JOHNSTOWN, PA., Jan. 10th 1921

Dear Sirs:

Please ship us at once via P R R
25 Cs. 2 Gross 10 cent Beechnut Tobacco

Very truly yours,

DOWLING & Co.

[Address.]

BEECH NUT PACKING CO.
Canajoharie, N. Y.

Plaintiff's Exhibit No. 12-R.

[Letterhead of
REYNOLDS-DAVIS GROCERY CO.]

No. 1429 C

FORT SMITH, ARK. 12-2-21

BEECHNUT COMPANY,
Canajoharie, N. Y.

Please ship according to
the following terms and specifications
To Reynolds Davis Grocery Co.,
Weleetka, Okla.

F. O. B. Via

10 Gross Beechnut Tobacco

Goods shipped to our branch houses must be invoiced
in duplicate.

All papers to Fort Smith. REYNOLDS-DAVIS GROCERY CO.

Plaintiff's Exhibit No. 12-S.

PARSONS & SCOVILLE CO.
Incorporated

Branch House
Bowling Green, Ky.

EVANSVILLE, IND. Jan. 12, 1921.

IMPORTANT

Send original bill of
lading with invoice
or we shall assume
your willingness to
be charged direct for
any loss or damage.

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

Please send us:

10 gross Beech-Nut Scrap Tobacco.

Yours truly,

AWS:EH

PARSONS & SCOVILLE Co.

Plaintiff's Exhibit No. 12-T.

Purchase Order

Show this number on
invoice and packing slip

Order No. 3570.

Date, October 31, 1921.

BEECHNUT PACKING Co.,
Canajoharie, N. Y.

Please enter our order as follows:

Ship

Delivery

8 cs 10 cent Beechnut Scrap.

2 cs 10 cent Honest Scrap.

For Shipment to SMITH, LICHTY & HILLMAN Co.,

Waterloo, Iowa.

Per A. J. B.

Plaintiff's Exhibit No. 12-U.

[Letterhead of

OHIO VALLEY GROCERY CO.

Wholesale Only.]

822 West Main Street

LOUISVILLE, Ky. Oct. 5th, 1921.

BEECHNUT PACKING Co.,
Canajoharie, N. Y.*Gentlemen:*Please ship us as soon as possible ten gross Beechnut
Scrap Tobacco and ten thousand Beechnut Cigarettes.

Yours truly,

OHIO VALLEY GROCERY COMPANY,

HCR:LS

By H. C. RAYMOND, *Mgr.*

Plaintiff's Exhibit No. 12-V.

[Letterhead of
FULLER-HOLWAY COMPANY.]
Wholesale Grocers
and
Grain Dealers

AUGUSTA, ME., June 7, 1921.

BEECHNUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

Please ship at once, 30 M Beechnut Cigarettes, and
oblige.

Yours truly,

FULLER-HOLWAY COMPANY,
E. P. ROBBINS,
Vice President.

EPR—EML

Plaintiff's Exhibit No. 12-W.

[Purchase Order of
HENRY KING & COMPANY.]
Wholesale Grocers

Complete Stocks at Murfreesboro,
Tullahoma and McMinnville

Order No. 541.

MURFREESBORO, TENN., 10/1/21.

To BEECHNUT PACKING Co.,
Canajoharie, N. Y.

Please ship at once to Murfreesboro 5 M Beechnut
Cigarettes 20s.

HENRY KING & COMPANY,
By SMOTHERMAN.

Plaintiff's Exhibit No. 12-X.

[Letterhead of
AMERICAN GROCERS SOCIETY, INC.]
Branch Offices in Principal Cities
General Office
NEWARK, NEW JERSEY

NEW YORK, June 26, 1920.

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

In reply to the attached letter regarding order for Beech-Nut Scrap Tobacco, sent to you in error, we are enclosing a stamped envelope and would ask you to kindly enclose the order mailed to you by mistake and mail to the P. Lorillard Co., New York.

Yours very truly,

AMERICAN GROCERS SOCIETY, INC.

FA:AH

[Letterhead of
BEECH-NUT PACKING COMPANY.]
CANAJOHARIE, N. Y.]

In your reply refer to WCA-H of 6/23/20.

AMERICAN GROCERS SOCIETY,
9 Clinton St.,
Newark, N. J.

Gentlemen:

Your order for 5 gross of Beech-Nut Scrap Tobacco has been received. We respectfully refer you to the P. Lorillard Company, New York, who manufacture this product.

Yours very truly,

BEECH-NUT PACKING COMPANY.
W. C. ARKELL.

Plaintiff's Exhibit No. 12-Y.

[Letterhead of
GENERAL CIGAR CO., INC.]

Distributing Branch 4637 St. Aubin Ave.

DETROIT, MICH., March 29th, 1921.

BEECHNUT PACKING Co.,

Canajoharie, N. Y.

Gentlemen:

Kindly cancel until further notice our standing order
for Beechnut Scrap.

Yours very truly,

GENERAL CIGAR COMPANY, INC.

WGW:D

WM. G. WEEKS.

Plaintiff's Exhibit No. 12-Z.

Office of
JOHN H. GOESER & CO.

WHOLESALE GROCERS

Danville

Hazleton

Tamaqua

DANVILLE, PA., Feb. 4, 1921.

BEECH-NUT PACKING Co.,

Canajoharie, N. Y.

Gentlemen.

We have about (1) gross of Beech-Nut Scrap which is
in a moldy condition.

Please advise us what we should do with this.

Respectfully yours,

KTG:M

J. H. GOESER & Co., INC.

Plaintiff's Exhibit No. 12-A-1.

[Letterhead of
LOUISIANA RAILWAY & NAVIGATION
COMPANY.]

OFFICE OF AGENT

ST, MAURICE, LA Nov/17/1921

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Dear sir;

Please send me your price list on Beech-Nut cigarettes per 1.000 as the dealers here don't carry them in stock

And also let me know if you can sell to me at wholesale price

I am.

Yours truly.

W. H. JACKSON,
Box 62.

Plaintiff's Exhibit No. 12-A-2.

Buick Automobiles
Fours and Sixes

Farm Machinery
Of All Kinds

D. J. EPPS & SON

Le Roy S. Epps, Manager
Everything for the Motor Car
And Farm

KINGSTREE, SOUTH CAROLINA Jan. 6th, 1922.

BEECH NUT PACKING Co.

Brooklyn N. Y.

Gentlemen:—

The writer was informed to-day by a traveling salesman that you were now manufacturind a very tastefull Cigarette.

I would ask that if the above statement be true that you please mail me two sample packages, thanking you in advance for the above favor.

very truly yours

D. J. EPPS & SON

LE ROY S. EPPS

Mgr.

L/S/E.

Plaintiff's Exhibit No. 12-A-3.

[Letterhead of

LAMONT, CORLISS & COMPANY.]

Agents for Manufacturers

131 Hudson St.

NEW YORK August 23rd, 1920.

BEECHNUT PACKING COMPANY,

650 Hudson Street,

New York City.

Dear Sirs:

The bill poster who is working in New York on Beechnut Chewing Tobacco is so ambitious that he pasted his posters all over our Receiving Platform.

We are sure that this is not done under your instructions, and we would greatly appreciate your getting in touch with the Company doing this work. You will doubtless wish to have this practice discontinued in order to avoid repetition in other places.

Very truly yours,

LAMONT, CORLISS & COMPANY.

R. L. TRIMMER

Traffic Manager.

RLT:CRM

Plaintiff's Exhibit No. 12-A-4.

[Letterhead of
ENGLES EXPRESS CO.]

38 Pearl Street

NEW YORK, April 5, 1921.

BEECHNUT PACKING CO.,
650 Hudson Street,
New York City.

Gentlemen:

We notice that one of your advertising posters has been affixed to the doorway of our warehouse situated at #76 Pearl Street, and we would ask that you have same removed immediately.

We consider it entirely out of order for this to have happened, and we request your immediate attention to the matter.

Very truly yours,

ENGELS EXPRESS CO.,

OE—Jr/KA

O. ENGELS, Jr.

[Note: Pasted to above letter in this exhibit is a torn poster bearing the words:

“Quality Made
Beech-Nut
Chewing Tobacco
Famous”]

Plaintiff's Exhibit No. 12-A-5.

[Salesman's Letter of
ARBUCKLE BROTHERS, NEW YORK.]

City Danville State Ill.

To New York.

Date Oct. 16, 1920

Subject:

BEECHNUT PACKING Co
Canajoharie, N. Y.

Dear Sirs:

In making my territory as salesman for Arbuckle Bros I do considerable advertising by tacking signs. I also notice that Beech Nut Chewing gum is advertised heavily to the extent that Beech Nut Chewing gum signs are pasted on over my signs. As my advertising is not doing me any good when some one covers it up I will ask you if there are any steps that can be taken by you to prevent this.

It seems like the one that is doing that should have regard for another mans advertising. If I see a place taken up with other advertising I pass it up and hunt a place where I will not have to cover any one else up, Please let me hear from you in regard to this. This happened chiefly in Clinton, Ind.

ERNEST D. WINTROWD

Box 367

Danville, Ill.

GWS/MH 10/30/20

MR. ERNEST D. WINTROWD,
Box 367,
Danville, Ill.

Dear Sir:

Following our letter of October 18, in answer to yours of October 16, we will be pleased to have you give us an idea of just what Beech-Nut Advertising signs are being placed over those put up by yourself.

We were not aware that any of our men had any material for advertising Beech-Nut Gum and if it is advertising for Beech-Nut Scrap Chewing Tobacco we would like to know it.

Your good attention to this matter will be appreciated by us as we have no desire to have our men put up advertising material to the detriment of other concerns.

Awaiting your early reply, we are

Yours very truly,

BEECH-NUT PACKING CO.
Sales Dept.

ARBUCKLE BROTHERS
NEW YORK

DANVILLE, ILL Nov. 6, 1920

Subject:

BEECH-NUT PACKING CO.
Canajoharie, N. Y.

Gentlemen.

Since receiving your letter of Oct. 30 and also one from your Sales Mgr. in Indianapolis Ind. concerning Beech Nut signs tacked over Arbuckle Coffee signs, I have dis-

covered my mistake as it is Beech Nut Chewing Tobacco signs instead of Chewing Gum signs.

I am very sorry to have caused you any inconvenience whatever in my mistake.

Yours very truly

ERNEST D. WINTROWD
Box 367

Plaintiff's Exhibit No. 12-A-6.

[Letterhead of

ALFRED W. ZOEBISCH.]

Holbrook, Mass.
Wednesday,
Nov. 9th, 1921.

BEECH-NUT PACKING Co.,
Canajoharie
New York, U. S. A.

Dear Sirs:

Will you please mail me one of your advertising cards relating to your Bacon, etc. I have a small store hear in the town of Holbrook, Norfolk County, and am willing to pay postage for same.

Also sell your Beech-Nut Brand Chewing Gum—Cigarettes.

Thanking you in advance, I remain

Very truly yours,

ALFRED W. ZOERISCH.

Plaintiff's Exhibit No. 12-A-7.

NEW YORK, Nov. 3rd, 1921.

THE BEECHNUT PRODUCTS

New York.

Gentlemen:

I have been looking about for a Tobacco Firm to become interested to the extent of making a cigarette named after Ed Wynn—"The Perfect Fool."

This comedian is now ranked among the foremost entertainers in America. Mr. Wynn opens in his latest musical riot, which Mr. A. L. Erlanger chooses to call "The Perfect Fool" at the George M. Cohan Theatre, New York City, Monday night, November the 7th. After closing in New York, which we hope will be a few months away, Mr. Wynn tours the country from coast to coast. I have several ideas in mind for the distribution and sale of a cigarette or a cigar named after Ed Wynn, The Perfect Fool.

If you are interested I would be pleased to hear from you, at your convenience.

Yours very truly,

H. P. HILL,

Bus. Representative

Ed Wynn "The Perfect Fool" Co.

GEORGE M. COHAN THEATRE

N. Y. City.

Plaintiff's Exhibit No. 12-A-8.

DRIVER-HARRIS COMPANY.

Cable Address: Driver Newark

Electrical Resistance Wires	Nichrome Castings
Special Alloys	Cold Rolled Strip Steel
and Pure Metals [Cut: picture]	Wire Rope
For Electrical Mechanical and	Flexible Heater Cord
Chemical Uses in the form of	Brass-Bronze-Monel Metal Wires
Wire-Sheet-Strip-Strand-Castings	Pure Sheet Nickel

HARRISON, N. J. Sept. 29, 1921.

BEECHNUT PACKING CO.,
Canajoharie, N. Y.

Attention: Advertising Manager*Gentlemen:—*

As an enthusiastic user of Beechnut Bacon and some of your other products and as an advertising man, I am doubly interested to know whether your company is in any way connected with Beechnut Cigarettes.

I bought one package of these cigarettes on the strength of your Beechnut trade name, being under the impression that these cigarettes were one of your products, although, I must confess, it was surprising to me that you should add a cigarette to your products.

While I might have discovered sooner or later that another company's name appeared on the package, I did not do so at once and not until it was called to my attention. Incidentally I might say that the cigarettes, in my mind, did not come up to the high standard of your Beechnut products.

I am very much interested to know whether the Beechnut Packing Co. is in any way connected with this cigarette and if not whether they are contemplating any ac-

tion in what seems to be an attempt to capitalize the name which has a very high commercial value.

Yours very truly,

DRIVER HARRIS COMPANY

G. A. RICKERT

GAR:C

Advertising Manager. C

Plaintiff's Exhibit No. 12-A-9.

[Letterhead of

DIAMOND TIRE & SUPPLY CO.]

130 Oneida Street

MILWAUKEE, October 4, 1921.

BEECH NUT PACKING COMPANY,
Canajoharie, N. Y.

Gentlemen:—

For sometime past, the writer has been more than pleased with the very excellent quality of your products, having used your gums, candies, etc., etc., In fact, I have been a real booster for "Beech Nut" merchandise.

The other day, I deviated from my usual practice and purchased a package of Beech Nut cigarettes expecting to receive a product of unusually high standard.

After smoking three or four of these cigarettes, and passing a few around to some friends, we have all reached the conclusion that the "Beech Nut" standard has been greatly reduced.

I believe you will accept this criticism from a constructive view point, and beg to remain

Very truly yours,

B. M. REILLY

Plaintiff's Exhibit No. 12-A-10.

[Letterhead of

A. G. MORSE CO., INC.]

Chocolates and Fancy Packages

High Grade CHOCOLATES a Specialty

210 to 220 N. Halsted Street

CHICAGO, Oct. 20th, 1921.

BEECH-NUT PACKING Co.,

Canajoharie, N. Y.

Gentlemen:

The writer would appreciate your settling an argument.

Is the Beech-Nut Packing Co., of Canajoharie, N. Y. controlling all the products under the name of Beech-Nut such as bacon, catsup, cigarettes, peanut butter, chewing gum and mints.

Appreciating your response, we are

Yours truly,

E. F. CHAMBLISS.

EFC:ML.

Plaintiff's Exhibit No. 12-A-11.

Established 1862

E. HALLOCK

(Chas. H. Hallock, Proprietor)

Fancy Groceries and Every Variety of
Merchandise

Freight or Express

Mastic Station

L. I. R R., N. Y.

P. O. MORICHES, New York, Oct. 8, 1921.

BEECH-NUT PACKING Co.,

My Dear Sirs:

I have not seen, but I have heard of "Beech Nut" Cigarettes, but I cannot *believe* your *wonderful* firm has come down to the low, beggarly business of making cigarettes, *one* of the lowest things on earth, to my mind—

I have lost two friends through smoking cigarettes, so I am *DOWN DOWN* on them. And I have yet to believe that the wonderful "Beech Nut Packing Co." have come down to that greasy, dirty body killing cigarette business.

Let me hear the TRUTH, please.

Yours truly,

CHAS. H. HALLOCK.

If you are "not guilty" and I do not believe you are, would you allow me to have your reply printed or to have some circulars printed for distribution?

C. H. H.

Plaintiff's Exhibit No. 12-A-12.

ADAMS & SONS GROCER CO.

Wholesale Grocers.

This Number Must No. 24886
Show on Your Invoice

CHILLICOTHE, Mo., 1-16-22, 192--.

BEECH NUT PACKING Co.,
Canajoharie, N. Y.

Ship to us at Chillicothe, Mo.----- Via-----

The following goods, F. O. B.— Days net or Less—% Discount in—Days

Quantity	Articles
20	M Beechnut Cigarettes

ADAMS & SONS GROCER CO.

Per Ray F. Chase.

Please acknowledge receipt of this order
and state when you will ship.

Send all Invoices with Bill of Lading to
Our Chillicothe Office.

Plaintiff's Exhibit No. 12-A-13.

WAR DEPARTMENT.

WASHINGTON GENERAL INTERMEDIATE
DEPOT

Office of the Quartermaster Supply Officer

Address Reply to

Q. M. Supply Officer

20th & C. Sts. N. W.

Washington, D. C.

WASHINGTON, D. C. 3/27/22

No. 400-P (Reqn No.)

From: Quartermaster Supply Officer, Washington, D. C.

To: Beechnut Packing Co., Canajoharie, N. Y.

Subject: Quotation.

1. Your quotations are requested on the following items for immediate delivery to the General Sales Store, 21st & C Sts., N. W., Wash. D. C.

2. Quotations should be submitted f. o. b. destination and reach this office at the earliest possible date.

By authority of the Quartermaster Supply Officer.

C. B. ECKELS,

Major, Quartermaster Corps.

Quantity	Unit	Article	Unit Price	Del'y.
----------	------	---------	------------	--------

Tobacco, Chewing, Scrap, Beechnut, 2¼ oz.

-----% discount -----days

Signature of Bidder.-----
Place and Date.

Plaintiff's Exhibit No. 12-A-14.

[Check.]

No. 37468

LOUGH-SIMPSON GROCERY CO.

WHOLESALE GROCERS CANNED GOODS A SPECIALTY

MORGANTOWN, W. VA., 3/20/1922

Pay to the order of Beech-Nut Tobacco Co. \$38.95

—Thirty Eight Dollars Ninety Five Cents—

LOUGH-SIMPSON GROCERY CO.

R. A. LOUGH,

Manager-Treas.

To BANK OF THE MONONGAHELA VALLEY
69-92 MORGANTOWN, W. VA.

[Stub.]

No. 37468

MORGANTOWN, W. VA., 3/20 1922

M Beech-Nut Tobacco Co.

The attached check on Bank of the Monongahela Valley, is in settlement of our account as below.

Inv. 3/15.....	13 25
" 3/15.....	13 25
" 3/15.....	13 25

39 75

Less Disct

80

38 95

Yours Truly

LOUGH-SIMPSON GROCERY CO.

Per L

Kindly detach receipt and return

[Envelope.]

After 5 days, return to
LOUGH-SIMPSON GROCERY CO.,
Lock Box 618,
MORGANTOWN, W. VA.

[Postmark.]
Morgantown, W. Va.,
Mar 25 6:30 P M 1922

BEECHNUT TOBACCO COMPANY
Canojaharie N. Y.

Plaintiff's Exhibit No. 12-A-15.

THE AMSTER COMPANY
3500-3502 Woodland Ave.

CLEVELAND, OHIO. Mar. 22, 1922.

BEECHNUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

We are making up a catalog of cigarette and tobacco products for our salesmen, and request that you mail us ten each of either package fronts or pictures of products of your manufacture for use in this connection.

Your assistance in getting this matter taken care of will be greatly appreciated.

Your very truly,

LE:MW

THE AMSTER COMPANY.

Plaintiff's Exhibit No. 12-A-16.

[Letterhead of
ALLIED TOBACCO INDUSTRIES EXPOSITION.
COLISEUM, CHICAGO, June 10 to 17, 1922.]

Address all communications to Allied Tobacco Industries Exposition, 417
South Dearborn Street, Chicago
TELEPHONE—Harrison 1878.

February 11th, 1922.

BEECH NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

At last the tobacco industry is to have an exposition such as all other industries have and it is expected that the good accruing therefrom will do the same amount of good to our industry as does the auto show, shoe exposition, chemical show and numerous other expositions do to their respective industries.

The program will be highly educational and will be such as to attract men from all branches of the tobacco industry as well as the general public. The decision of the executive committee to hold the Allied Tobacco Industries Exposition starting June 10 and continuing until June 17 was reached after a careful survey was made by taking the matter up with a great many people prominently identified with the industry.

On the back of this letter will be found diagram showing spaces, arrangement, cost, etc. We request that you let us have your first, second and third choice as spaces will be allotted in the order in which we receive applications. Spaces one to forty inclusive have already been reserved.

Trusting we may include your firm among our representative list of exhibitors, we are

Yours very truly,

MILO E. WESTBROOKE,
Manager.

MEW:EN

Plaintiff's Exhibit No. 12-A-17.

CONTRACT FOR SPACE IN THE ALLIED TO-
BACCO INDUSTRIES EXPOSITION.

COLISEUM, CHICAGO, June 10th to 17th, 1922.

[Note: Blank contract form.]

Plaintiff's Exhibit No. 12-A-18.

F. M. BILL CO.

Wholesale Grocers

Importers and Coffee Roasters

360 Jackson Street

LOWELL, MASS., May 10, 1921.

BEECH-NUT PACKING CO.

Gentlemen:

Some days ago we received 10 m Beechnut Cigarettes without billing on same, and up to the time of writing we have received neither invoice or shipping receipt.

Kindly look this up and if shipped by you, mail invoice and shipping receipt.

Resp yours

F M BILL Co

L B

Plaintiff's Exhibit No. 12-A-19.

[Post Card.]

WAYNESBORO, TENN., June 2-22.

Dear Sirs:

I have noticed beech nut chewing tobacco in several places and would like to handle same if I knew where to get it. Please let me hear from you

I am yours

J. F. HETTASS.

[Address.]

BEECH-NUT PACKING CO.

Canajoharie, N. Y.

Plaintiff's Exhibit No. 12-A-20.

[Letterhead of

P. P. MARTINEZ.]

Wholesale Tobacconist
and Manufacturer of Smoking Tobacco.

DALLAS, TEXAS, May 31, 1922.

BEECHNUT PACKING CO.,

Canajoharie, N. Y.

Dear Sirs:

Please send me :

2 cases Beechnut Cigarettes.

Yours very truly,

P. P. MARTINEZ

Per M

L/M

Plaintiff's Exhibit No. 12-A-21.

[Post Card.]

Office of
THE KANAWHA DRUG CO.
Wholesale Druggists.

CHARLESTON, W. VA., June 21, 1922.

Gentlemen:

Please ship at once for us to Georges Creek Coal Co.,
Ethel, W. Va., invoicing to us in duplicate,

4 Gross Beechnut Tobacco.

Yours truly,

THE KANAWHA DRUG CO.

By Jr—R.

[Address.]

BEECHNUT PACKING Co.,

Canajoharie, New York.

Plaintiff's Exhibit No. 12-A-22.

W. L. de BLOIS-LEACH

COMMERCIAL AGENTS

Tobacconist's Specialties & Novelties

14 RUE CHALGRIN, PARIS, April, 18th, 1923.

Export Manager,

BEECHNUT PACKING Co.

New York,

Mr. BART ARKELL.

Sir,

Through the recommendation of Mr. L. L. Rounds,
during one of his visits to Paris, I beg to enclose a copy

of the French Regie Regulations for the introduction of cigarettes into France, which may be of possible interest to you.

Should the introduction of your sales be within your consideration I shall be pleased to forward you all other necessary information, etc, with a view to taking up your agency and forthering your interests for this territory.

Your competitive lines are, Chesterfields, One Elevens, and Camels (just introduced).

Thanking you in anticipation for your reply in due course and the return of the regulations should they prove of no interest to you.

I am,

Sir,

Obediently yours,

W. L. de BLOIS-LEACH.

W. L. de Blois-Leach.

Plaintiff's Exhibit No. 12-A-23.

[Envelope.]

RETURN AFTER FIVE DAYS TO Leitchfield, Kentucky
THE JAMES GROCERY CO.
Wholesale Grocers

[POSTMARK]
Louisville, Ky.
Jun 17, 1923, 8 P. M.

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

PLAINTIFF'S EXHIBIT NO. 13—PHOTOGRAPH, PENNELL'S CIGAR STORE WINDOW DISPLAY, ASHEVILLE, N. C.



PLAINTIFF'S EXHIBIT NO. 14—RECEIPT SIGNED
"E. L. LARSON."

Form 8, 36

P. LORILLARD & CO.
110 WEST 40TH STREET
NEW YORK, N. Y.

Jobber

Town

State

Ship to (Name)

Shipping Point

P. O. Address

SHIP FROM JOBBER'S STOCK

Quantity	BRAND	SIZE	STYLE	PRICE
1	Beech Pot	10		76
				3
				74
Paid				
E. L. Larson				

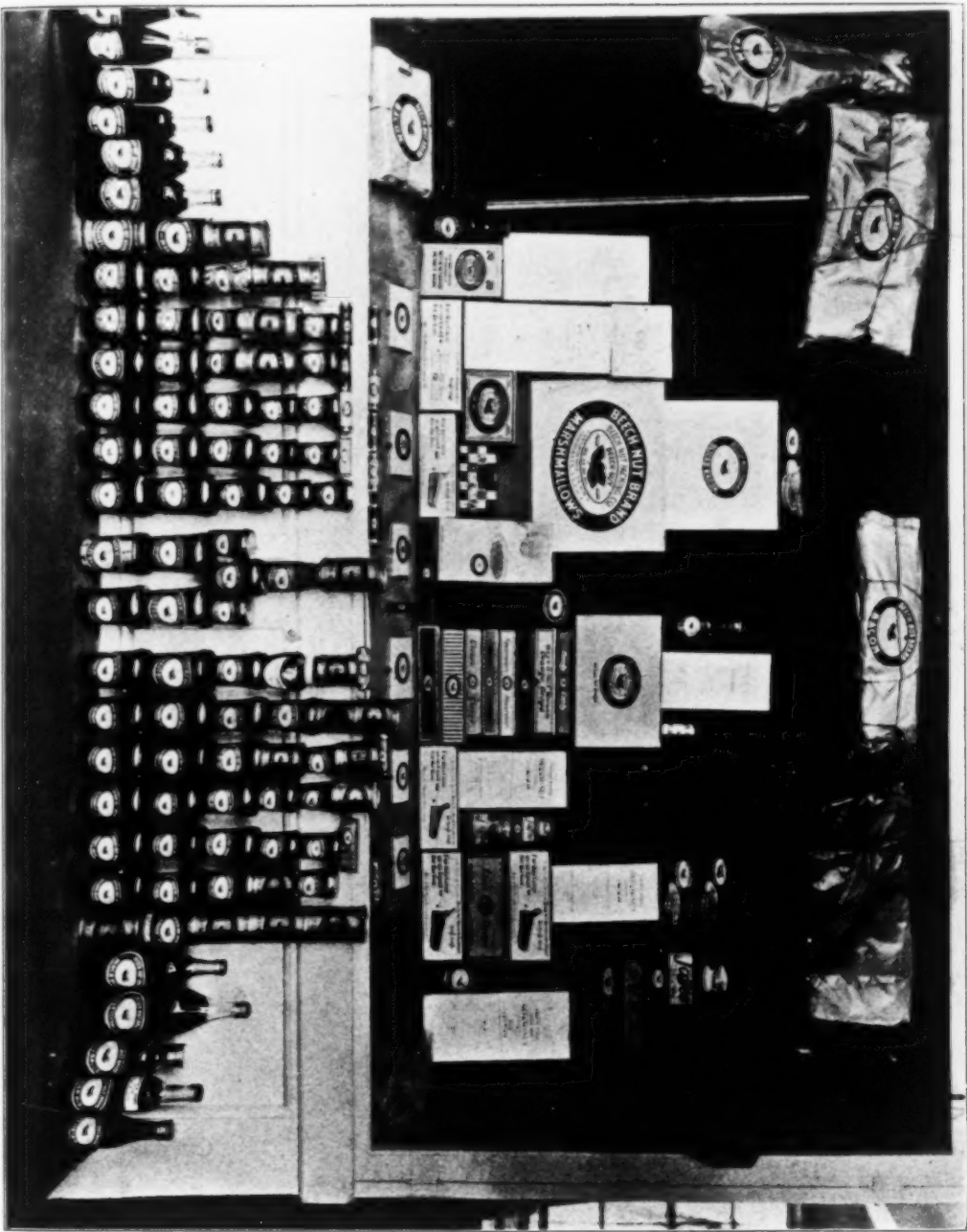
This order is subject to acceptance by the jobber to whom it is addressed
SIGNATURE OF
Retail
Purchaser

Order taken by Salesman

E. L. LARSON

IF NOT ACCEPTABLE RETURN THIS ORDER TO

PLAINTIFF'S EXHIBIT NO. 15—PHOTOGRAPH, COLLECTION OF BECH-NUT PACKING
COMPANY PRODUCTS 1922.



PLAINTIFF'S EXHIBIT NO. 16—PORTION OF SHIPPING CARTON
USED BY BEECH-NUT PACKING COMPANY.



PLAINTIFF'S EXHIBIT NO. 17—P. LORILLARD COMPANY
BEECH-NUT CIGARETTES CARTON.



PLAINTIFF'S EXHIBIT NO. 19—PHOTOGRAPH, SCRAP-BOOKS OF BEECH-NUT PACKING COMPANY
PERIODICAL ADVERTISING, 1911-1915.



PLAINTIFF'S EXHIBIT NO. 27—BEECH-NUT
CHEWING GUM DISPLAY BOX.

67



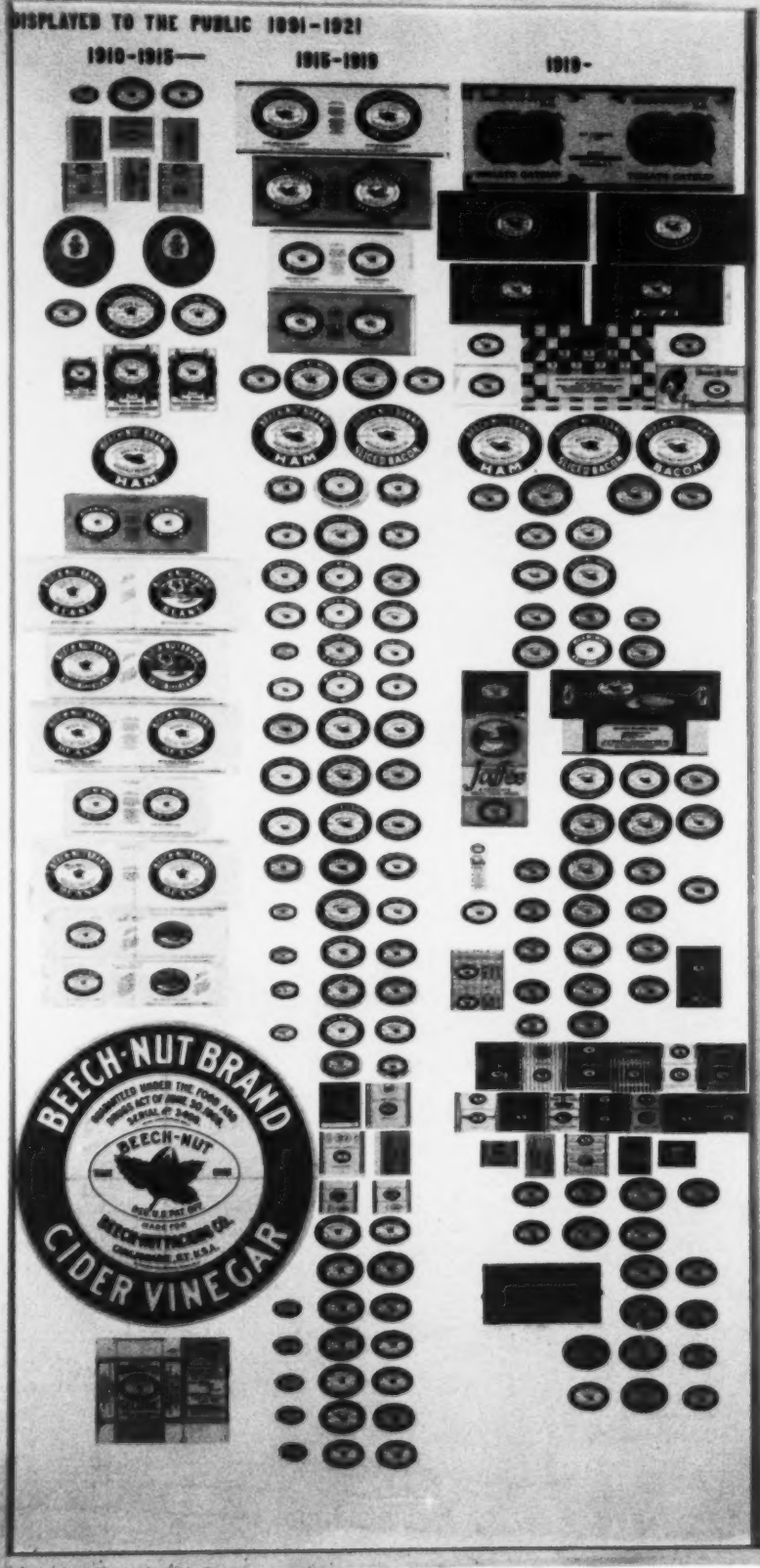
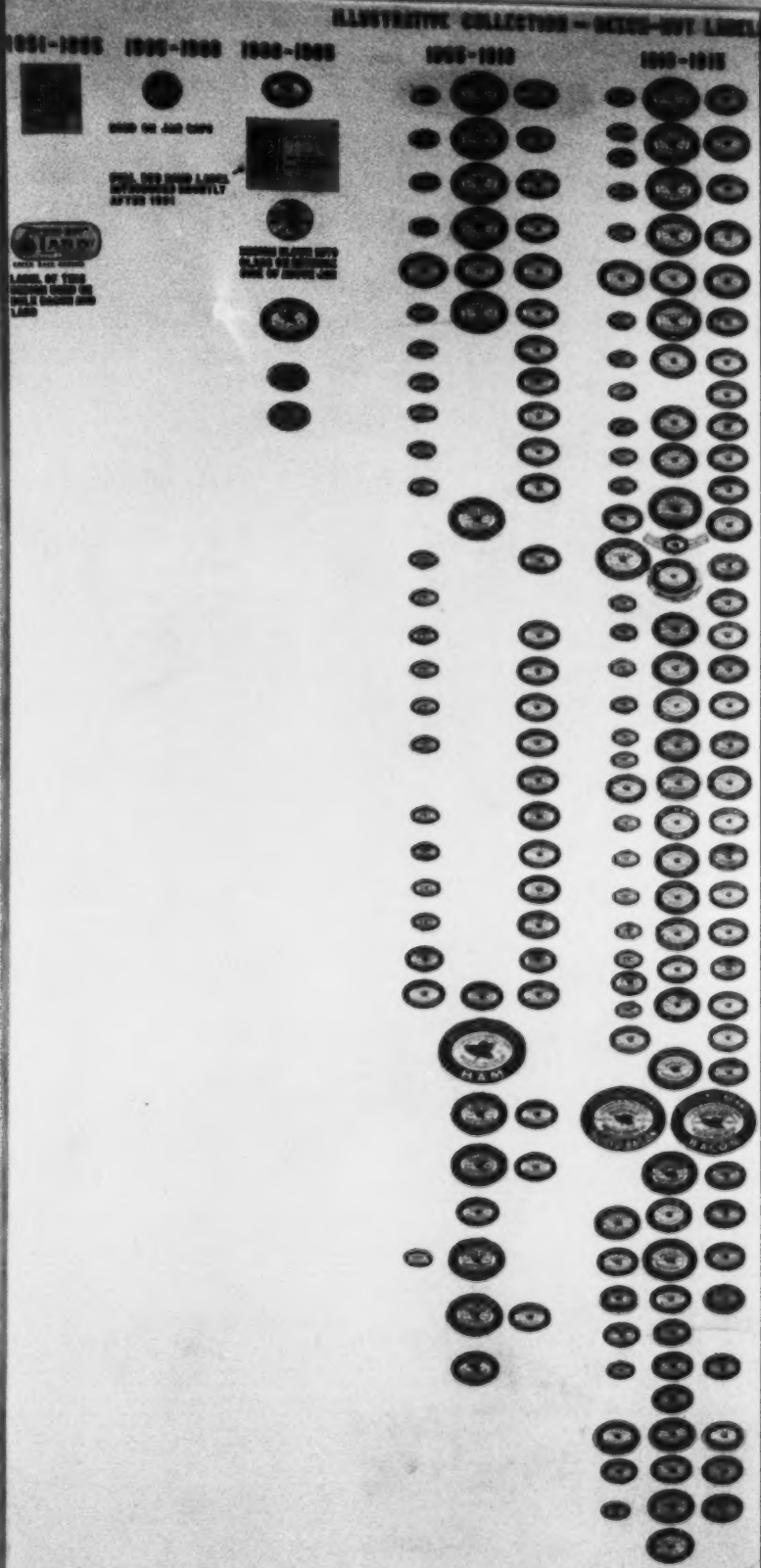
BOX INCLOSED IN OUTSIDE COVER.



BOX WITH FLAP DOWN—COVER REMOVED.



BOX WITH FLAP UP.



PLAINTIFF'S EXHIBIT NO. 31—IMPERIAL PACKING
COMPANY BOX OF 1891.



**PLAINTIFF'S EXHIBIT NO. 35—SUMMARY OF
BEECH-NUT PACKING COMPANY PRODUCTS.**

1902

BULK GOODS

Beech-Nut Hams, Bacon and Beef.

SLICED BACON

Beech-Nut Sliced Bacon, glass jars,
Beech-Nut " " , one pound boxes,
Mohawk " " , glass jars.

BEEF

Beech-Nut Sliced Beef, glass jars,
Mohawk " " " "
Holly " " " "
Erie Chipped " " "

CONSERVES

Beech-Nut Pure Grape Jam

1903

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, glass jars,
Mohawk " " " "

BEEF

Beech-Nut Sliced Beef, glass jars
Beech-Nut Chopped " " "
Holly Sliced " " "
Erie Chipped " " "

CONSERVES.

Beech-Nut Grape Jam
" " Gingered Pear
" " Cranberry Sauce

1906

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, glass jars
 Mohawk " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars
 Mohawk " " " "
 Holly " " " "
 Erie Chipped " " "

BEECH-NUT CONSERVES

Grape Jam, Concord	Peanut Butter
Grape Jam, Catawba	Rhubarb Marmalade
Cranberry Sauce	Lime Fruit Jelly
Orange Marmalade, sweet	Blackberry Jam
Orange Marmalade, bitter	Red Currant Jelly
Orange Marmalade, lemoned	Pineapple Preserve
Grape Fruit Marmalade	Spiced Plum
Lime Fruit Marmalade	Plum Jam
Black Currant Jelly	Peach Jam
Quince Jelly	Quince Jam
Strawberry Jam	Ginger Pear
Strawberry " home style	Grape Jelly
Red Raspberry Jam	Crabapple Jelly
Cherry Preserve	Dates
	Fard Dates
	Persian Dates

BACON & BEEF IN GLASS TABLE TUMBLERS

Beech-Nut Sliced Bacon Beech-Nut Sliced Beef

CHEESE

Beech-Nut Camembert Cheese
 Beech-Nut Cream-De-Lay Cheese

LARD FOR PIES

Beech-Nut Lard for Pies in stone crocks

BEANS

Beech-Nut Baked Beans, in tins

1907

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, glass jars
Mohawk " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars
Mohawk " " " "
Holly " " " "
Erie Chipped " " "

SAUSAGE

Beech-Nut Sliced Sausage, glass jars

BEANS

Beech-Nut Beans, Tomato Sauce, in tins
Beech-Nut " Plain " "

CHEESE

Beech-Nut Cream-De-Lay Cheese, Opal glass jars,
" " Roquefort, Imported, " " "
" " Gorgonzola, " " " "

BEECH-NUT CONSERVES

Blackberry Jam	Peach Jam
Black Currant Jelly	Pineapple Preserve
Cherry Preserve	Plum Jam
Crabapple Jelly	Quince Jelly
Cranberry Sauce	Red Currant Jelly
Fig Jam	Red Raspberry Jam
Grape Fruit Marmalade	Rhubarb Marmalade
Grape Jam, Catawba	Strawberry Jam (Home
Grape Jam, Concord	Style)
Grape Jelly	Spiced Plum
Lime Fruit Jelly	Dates
Strawberry Jam	Figs
Lime Fruit Marmalade	Fard Dates
Orange Marmalade, bitter	Persian Dates
" " lemoned	Ginger Pear
" " sweet	Peanut Butter

1908

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, glass jars				
Mohawk	"	"	"	"
Erie	"	"	"	"

SLICED BEEF

Beech-Nut Sliced Beef, glass jars				
Mohawk	"	"	"	"
Holly	"	"	"	"
Erie	"	"	"	"

SLICED SAUSAGE

Beech-Nut Sliced Sausage, glass jars
Lebanon Sliced Sausage

BEECH-NUT CANDY IN GLASS

Peppermint Cuts,	Wintergreen Cuts
Hoarhound "	Lime "
Beech-Nut Creams, Mint	Cinnamon "
flavor and Vanilla flavor	Lemon "
Beech-Nut Molasses Pep-	Clove "
permint Cuts	Anise "

CHEESE

Beech-Nut Roquefort, Imported, opal glass jars				
" " Gorgonzola	"	"	"	"
" " Cream-De-Lay	"	"	"	"
" " Camembert	"	"	"	"

1908 (Continued)

BEECH-NUT CONSERVES

Blackberry Jam	Orange Marmalade, sweet
Black Currant Jelly	Orange Marmalade,
Cherry Preserve	lemoned
Crab Apple Jelly	Rhubarb Marmalade
Apple Jelly	Peanut Butter
Cranberry Sauce	Pineapple Preserve
Fig Jam	Plum Jam
Peach Jam	Quince Jelly
Red Currant Jelly	Strawberry Jam
Red Raspberry Jam	Strawberry " (home
Grape Fruit Marmalade	style)
Grape Jam, Concord	Spiced Plum
Grape Jelly	Figs
Lime Fruit Jelly	Dates
Lime Fruit Marmalade	Fard Dates
Orange Marmalade, bitter	Persian Dates

BEANS

Beech-Nut Beans, Tomato Sauce, in tins

TOMATO CATSUP

Beech-Nut Tomato Catsup in bottles

CIDER VINEGAR

Beech-Nut Cider Vinegar, barrels about 47 gallons

1909

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut	Sliced Bacon, glass jars
Mohawk	" " " "
Erie	" " " "

SLICED BEEF

Beech-Nut	Sliced Beef, glass jars
Mohawk	" " " "
Holly	" " " "
Erie	" " " "

SLICED SAUSAGE

Beech-Nut	Sliced Sausage, glass jars
Lebanon	Sliced Sausage, " "

BEECH-NUT CONSERVES

Strawberry Jam	Lime Fruit Jelly
Strawberry, home style	Apple Jelly
Blackberry Jam	Cherry Preserve
Red Raspberry Jam	Pineapple
Peach Jam	Peanut Butter
Cranberry Sauce	Lime Fruit Marmalade
Concord Grape	Orange sweet "
Plum' Jam	" bitter "
Fig Jam	Grape Fruit "
Red Currant Jelly	Rhubarb "
Black Currant "	Figs
Quince Jelly	Dates
Grape Jelly	Fard Dates
Crabapple Jelly	Persian Dates
	Spiced Plum

BEANS

Beech-Nut Beans, Tomato Sauce, in tins
Beech-Nut Beans, Plain " "

1909 (Continued)

CATSUP

Beech-Nut Tomato, in bottles

VINEGAR

Beech-Nut Cider Vinegar in bottles

Beech-Nut Cider Vinegar in barrels

BEECH-NUT CANDY IN GLASS

Peppermint Cuts	Cinnamon Cuts
Wintergreen "	Assorted "
Lime "	Hoarhound "
Lemon "	Clove "
	Anise "

SEA FOOD

Beech-Nut Boned Herring in glass jars

Beech-Nut Fancy Codfish in glass jars

CHEESE

Beech-Nut Camembert Cheese

Beech-Nut Roquefort in opal glass

Beech-Nut Roquefort Type in opal glass

1910

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, in glass jars,
 Erie " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars
 Mohawk " " " "
 Holly " " " "
 Erie " " " "

SAUSAGE

Beech-Nut Sliced Sausage, glass jars,

BEECH-NUT CONSERVES

<i>Jams</i>	<i>Jellies</i>	<i>Preserves</i>
Strawberry	Red Currant	Cherry
Strawberry, home style	Black Currant	Pineapple
Blackberry	Quince	
Red Raspberry	Grape	
Peach	Crabapple	
Cranberry Sauce	Lime Fruit	
Concord Grape	Apple	
Plum	Peanut Butter	
Fig		
Spiced Plum		
<i>Marmalades</i>	<i>Figs and Dates</i>	
Lime Fruit	Beech-Nut Figs	
Orange, sweet	" " Dates	
Orange, bitter	Fard Dates	
Grape Fruit	Persian Dates	
Rhubarb		

1910 (Continued)

BEANS

Beech-Nut Beans, Tomato Sauce
 " " " , Plain

TOMATO CATSUP

Beech-Nut Catsup in bottles

CIDER VINEGAR

Beech-Nut Cider Vinegar in bottles and in barrels

SEA FOOD

Beech-Nut Smoked Boned Herring—Beech-Nut Codfish
 in shreds

OLIVE OIL

Beech-Nut Olive Oil

GRANULATED GELATINE

Beech-Nut Granulated Gelatine

CHEESE

Beech-Nut Camembert
 Beech-Nut Roquefort in opal glass
 " " " Type in opal glass
 Beech-Nut Gorgonzola " " "
 Beech-Nut Pimiento " " "

SLICED BACON

Beech-Nut Sliced Bacon, paste board boxes

1911

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in paste board boxes

Beech-Nut Sliced Bacon in glass jars

Erie Sliced Bacon in glass jars

SLICED BEEF

Beech-Nut Sliced Beef, glass jars

Mohawk " " " "

Holly " " " "

Erie " " " "

SEA FOOD

Beech-Nut Smoked Boned Herring

Beech-Nut Codfish in Shreds

OLIVE OIL

Beech-Nut Olive Oil

BEECH-NUT CONSERVES

*Jams**Jellies**Preserves*

Strawberry

Red Currant

Cherry

Blackberry

Black Currant

Pineapple

Red Raspberry

Quince

Peach

Grape

Cranberry Sauce

Crab Apple

Concord Grape

Apple

Plum

Fig

Spiced Plum

*Marmalades**Figs and Dates*

Lime Fruit

Beech-Nut Figs

Orange, sweet

" " Dates

Orange, bitter

Fard

Grape Fruit

Persian

Rhubarb

1911 (Continued)

PEANUT BUTTER

Beech-Nut Peanut Butter in glass jars

BEANS

Beech-Nut Beans, Tomato Sauce
Beech-Nut Beans, Plain

TOMATO SAUCE

Beech-Nut Tomato Sauce in bottles

BEECH-NUT GRANULATED GELATINE

CIDER VINEGAR

Beech-Nut Cider Vinegar in Bottles and Barrels

BEECH-NUT CHEWING GUM

CHEESE

Beech-Nut Camembert
Beech-Nut Roquefort, in opal glass
Beech-Nut Roquefort Type " "
Beech-Nut Gorgonzola " "

1912

BULK GOODS

Beech-Nut Hams and Bacon

BACON IN BOXES

Beech-Nut Sliced Bacon in paste board boxes

BACON IN GLASS JARS

Beech-Nut Sliced Bacon Erie Sliced Bacon

BEEF

Beech-Nut Sliced Beef, glass jars

Holly " " " "

Erie " " " "

PEANUT BUTTER

Beech-Nut Peanut Butter

TOMATO CATSUP

Beech-Nut Tomato Catsup, in bottles

BEECH-NUT BEANS

CIDER VINEGAR

Beech-Nut Cider Vinegar in bottles and in barrels

BEECH-NUT CHEWING GUM

BEECH-NUT OLIVE OIL

BEECH-NUT CONDIMENT SAUCE

BEECH-NUT GRANULATED GELATINE

SEA FOOD

Beech-Nut Selected Smoked Herring

Beech-Nut Codfish in Shreds

1912 (Continued)

BEECH-NUT CONSERVES

<i>Jam</i>	<i>Jelly</i>	<i>Marmalade</i>
Strawberry	Red Currant	Orange Marma-
Blackberry	Black Currant	lade, sweet
Red Raspberry	Quince	Grape Fruit Mar-
Peach	Grape	malade
Cranberry Sauce	Crabapple	Rhubarb Marma-
Concord Grape	Apple Spitzen-	lade
Plum	berg	Orange Marma-
Fig		lade, bitter
Spiced Plum	Pineapple Pre-	Lime Fruit Mar-
	serve	malade

FRUITS IN SYRUP

Beech-Nut Brand Figs

CHEESE

Beech-Nut Camembert
 Beech-Nut Roquefort in opal glass
 Beech-Nut Pimiento
 Beech-Nut Gorgonzola

1913

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in Boxes

Beech-Nut Sliced Bacon in glass jars

Erie " " " " "

BEEF

Beech-Nut Sliced Beef, glass jars

Holly Brand " " " "

Erie " " " " "

BEECH-NUT TOMATO CATSUP

BEECH-NUT BEANS

BEECH-NUT OLIVE OIL

BEECH-NUT PREPARED MUSTARD

BEECH-NUT PEANUT BUTTER

BEECH-NUT CIDER VINEGAR

BEECH-NUT GRANULATED GELATINE

BEECH-NUT CHEWING GUM

BEECH-NUT CONSERVES

Strawberry
 Blackberry Jam
 Red Raspberry
 Peach
 Cranberry Sauce
 Concord Grape
 Plum
 Fig
 Spiced Plum

Red Currant Jelly
 Black Currant Jelly
 Quince Jelly
 Guava Jelly
 Grape Jelly
 Crabapple
 Apple Jelly (Spitzenberg)
 Orange Marmalade
 Grape Fruit Marmalade
 Rhubarb Marmalade
 Pineapple Preserve
 (Shredded)

FRUITS IN SYRUP

Beech-Nut Brand Figs

1914

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in paste board boxes

Beech-Nut Sliced Bacon, glass jars

Erie " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars

Holly " " " "

Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT TOMATO CATSUP

BEECH-NUT BEANS

BEECH-NUT OLIVE OIL

BEECH-NUT PREPARED MUSTARD

BEECH-NUT CIDER VINEGAR

BEECH-NUT GRANULATED GELATINE

BEECH-NUT CHEWING GUM

BEECH-NUT MINTS

BEECH-NUT CONSERVES

Jam

Strawberry Jam

Blackberry Jam

Red Raspberry Jam

Peach Jam

Cranberry Sauce

Concord Grape Jam

Plum Jam

Fig Jam

Spiced Plum Jam

Jelly

Red Currant Jelly

Black Currant Jelly

Quince Jelly

Guava Jelly

Grape Jelly

Crabapple Jelly

Apple Jelly (Spitzenberg)

Pineapple Preserve
(Shredded)

Marmalade

Orange Marmalade, sweet

Grape Fruit

Rhubarb

FRUITS IN SYRUP

Beech-Nut Brand Figs

1915

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in paste board boxes

Beech-Nut Sliced Bacon in glass jars

Erie " " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars

Holly " " " "

Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT JAFFEE

BEECH-NUT CIDER VINEGAR

BEECH-NUT BEANS

BEECH-NUT OLIVE OIL

BEECH-NUT CHEWING GUM

BEECH-NUT MINTS

BEECH-NUT CONSERVES

Jam

Strawberry

Blackberry

Red Raspberry

Cranberry Sauce

Concord Grape

Damson Plum

Peach

Black Currant

Spiced Plum

Jelly

Red Currant

Black Currant

Quince

Guava

Grape

Crabapple

Apple (Spitzenberg)

Marmalade

Orange

Grape Fruit

Pineapple Preserve (shredded)

FRUITS IN SYRUP

Beech-Nut Brand Figs

1916

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in paste board boxes

Beech-Nut Sliced Bacon in glass jars

Erie " " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars

Holly " " " "

Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT BEANS

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT CIDER VINEGAR

BEECH-NUT CHEWING GUM

BEECH-NUT MINTS, WINTERGREENS, CLOVES

BEECH-NUT CONSERVES

Jam

Strawberry

Blackberry

Red Raspberry

Cranberry Sauce

Concord Grape

Damson Plum

Peach

Black Currant

Jelly

Black Currant

Red Currant

Quince

Guava

Grape

Crabapple

Apple Jelly (Spitzenberg)

Preserve

Pineapple (Shredded)

Cherry

Marmalade

Orange Marmalade

Grape Fruit "

FRUITS IN SYRUP

Beech-Nut Brand Figs

1917

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in boxes

Beech-Nut " " in glass jars

Erie " " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars

Holly " " " "

Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT BEANS

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT JAFFEE

BEECH-NUT CIDER VINEGAR

BEECH-NUT CHEWING GUM

BEECH-NUT MINTS, WINTERGREENS AND CLOVES

BEECH-NUT CONSERVES

Jam

Strawberry
 Blackberry
 Red Raspberry
 Cranberry Sauce
 Concord Grape
 Peach
 Black Currant

Jelly

Red Currant
 Quince
 Grape
 Crabapple
 Apple (Spitzenberg)
 Guava

Preserve

Pineapple (Shredded)
 Cherry

Marmalade

Grape Fruit
 Orange

1918

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, in boxes

Beech-Nut Sliced Bacon in glass jars

Erie " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars

Holly " " " "

Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT TOMATO SAUCE

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT JAFFEE

BEECH-NUT CIDER VINEGAR

BEECH-NUT CHEWING GUM

BEECH-NUT MINTS, WINTERGREENS AND CLOVES

BEECH-NUT CONSERVES

<i>Jam</i>	<i>Jelly</i>	<i>Marmalade</i>
Strawberry	Grape	Orange
Blackberry	Crabapple	Grape Fruit
Red Raspberry	Apple (Spitzenberg)	
Cranberry Sauce	Catawba Grape	
Concord Grape		
Damson Plum		
Pecan		
Black Currant		
Quince Jelly		
	<i>Preserve</i>	
	Pineapple Preserve	
	(Shredded)	
	Cherry Preserve	

1919

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in boxes
 Beech-Nut Sliced Bacon, glass jars
 Erie " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars
 Holly " " " "
 Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT BEANS, Tomato Sauce

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT JAFFEE

BEECH-NUT CIDER VINEGAR

BEECH-NUT GINGER ALE

BEECH-NUT CONSERVES

*Jams**Jellies**Marmalade*

Blackberry	Apple (Spitzenberg)	Grape Fruit
Damson Plum	Black Currant	Orange Marmalade
Peach	Catawba Grape	
Red Raspberry	Crab Apple	
Strawberry	Grape	
	Quince	
	Red Currant	

*Preserves**Sauce*

Cherry
 Pineapple

Cranberry

1919 (Continued)

BEECH-NUT JELLIED FRUITS
(in Lithographed Tins)

Apricots	Blackberry	Loganberry	Peach
Raspberry	Strawberry	Plums	Pineapple

BEECH-NUT JELLIED FRUITS
in tin, varnished label

Apricot Jam	Prunes in Syrup
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BEECH-NUT CHEWING GUM

BEECH-NUT CANDIES

Mints, Wintergreens, Cloves, Licorice, Sweet Birches,
Hard Candy Cough Drops, Lemon Drops, Lime Drops

1920

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon in Boxes

Beech-Nut " " in glass jars

SLICED BEEF

Beech-Nut Sliced Beef

Holly Sliced Beef

Erie Sliced Beef

BEECH-NUT PEANUT BUTTER

BEECH-NUT BEANS, Tomato Sauce

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT JAFFEE

BEECH-NUT CIDER VINEGAR

BEECH-NUT BEVERAGES

Ginger Ale

Birch

Sarsaparilla

BEECH-NUT CONSERVES

*Jams*Blackberry
Damson Plum
Peach
Red Raspberry
Strawberry*Jellies*Apple (Spitzenberg)
Black Currant
Catawba Grape
Crab Apple
Grape
Quince
Red Currant*Marmalade*Grape Fruit
Orange*Sauce*

Cranberry

*Preserves*Cherry
Pineapple (Shredded)

1920 (Continued)

BEECH-NUT CHEWING GUM

BEECH-NUT CANDIES

(Compressed Tablets)

Beech-Nut	Mint,	Beech-Nut	Licorice
" "	Clove	" "	Sweet Birch
" "	Wintergreen	" "	Cinnamon

BEECH-NUT HARD CANDIES

Beech-Nut	Anise	Beech-Nut	Lime
" "	Lemon	" "	Orange
Beech-Nut	Peanut Bars		
Beech-Nut	Caramels		

BEECH-NUT JELLIED FRUITS

(Lithographed Tins)

Apricots	Blackberry	Loganberry	Peach	Pineapple
Plums	Raspberry	Strawberry		

BEECH-NUT CALIFORNIA CONSERVES

(Packed in Tin with Varnished Label)

Apricot Jam	Prunes in Syrup
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1921

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, in boxes
 " " " " in glass jars
 Erie " " in " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars
 Holly " " " "
 Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT MACARONI AND SPAGHETTI

BEECH-NUT BEANS (Tomato Sauce)

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT JAFFEE

BEECH-NUT CONSERVES

<i>Jams</i>	<i>Jellies</i>	<i>Marmalades</i>
Blackberry	Apple (Spitzenberg)	Grape Fruit
Damson Plum	Black Currant	Orange
Loganberry	Crab Apple	
Peach	Grape	
Red Raspberry	Quince	
Strawberry	Red Currant	

*Preserves**Sauce*

Cherry	Cranberry
Pineapple (Shredded)	

1921 (Continued)

BEECH-NUT CALIFORNIA CONSERVES

Apricot Jam (Tin, varnished label)
Erie Brand Prunes in Syrup (glass)

BEECH-NUT JELLIED FRUITS
(Lithographed Tins)

Apricot	Blackberry	Cherry	Loganberry	Peach
Pineapple	Plum	Raspberry	Strawberry	

BEECH-NUT CHEWING GUM

BEECH-NUT COMPRESSED TABLETS

Mints	Wintergreens	Cloves	Licorice	Sweet Birches
	Cinnamons	Menthols		

BEECH-NUT HARD CANDIES

Anise	Horehound	Lemon	Lime
	Orange	Cough Drops	

BEECH-NUT PEANUT BARS

BEECH-NUT CARAMELS

BEECH-NUT BEVERAGES

Ginger Ale	Birch	Sarsaparilla
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1922

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, in boxes
 Beech-Nut " " in glass jars
 Erie " " " "

SLICED BEEF

Beech-Nut Sliced Beef, glass jars
 Holly " " " "
 Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT MACARONI PRODUCTS

BEECH-NUT PREPARED SPAGHETTI
(Packed in Tin)BEECH-NUT PORK & BEANS
(Tomato Sauce)

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT CONSERVES

<i>Jams</i>	<i>Jellies</i>	<i>Marmalades</i>
Blackberry	Apple (Spitzenberg)	Orange
Damson Plum	Black Currant	Grape Fruit
Loganberry	Crab Apple	
Peach	Grape	
Red Raspberry	Quince	
Strawberry	Red Currant	
	<i>Preserves</i>	<i>Sauce</i>
	Cherry	Cranberry
	Pineapple	
	(Shredded)	

1922 (Continued)

BEECH-NUT CALIFORNIA CONSERVES

(Packed in Glass)

Erie Brand Prunes in Syrup
(Packed in Tin, varnished label)
Apricot Jam

BEECH-NUT JELLIED FRUITS

(Lithographed Tins)

Apricot	Blackberry	Cherry	Loganberry	Peach
Pineapple	Plum	Raspberry	Strawberry	

BEECH-NUT CHEWING GUM

BEECH-NUT COMPRESSED TABLETS

Mints	Wintergreens	Cloves	Sweet Birches	Licorice
	Cinnamons	Menthols	Spearmints	

BEECH-NUT HARD CANDIES

Anise	Horehound	Lemon	Lime
	Orange	Cough Drops	

BEECH-NUT PEANUT BARS

BEECH-NUT CARAMELS

BEECH-NUT BEVERAGES

Ginger Ale	Birch	Sarsaparilla
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BEECH-NUT JAFFEE

1923

BULK GOODS

Beech-Nut Hams and Bacon

SLICED BACON

Beech-Nut Sliced Bacon, in boxes
 " " " " in glass jars

SLICED BEEF

Beech-Nut Sliced Beef, glass jars
 Holly " " " "
 Erie " " " "

BEECH-NUT PEANUT BUTTER

BEECH-NUT MACARONI PRODUCTS

BEECH-NUT PREPARED SPAGHETTI
(Packed in Tin)BEECH-NUT PORK AND BEANS
(Tomato Sauce)

BEECH-NUT TOMATO CATSUP

BEECH-NUT CHILI SAUCE

BEECH-NUT PREPARED MUSTARD

BEECH-NUT CONSERVES

Jams

Blackberry
 Damson Plum
 Peach
 Loganberry
 Red Raspberry
 Strawberry

Jellies

Apple (Spitzenberg)
 Black Currant
 Crab Apple
 Grape
 Quince
 Red Currant

Marmalades

Orange
 Grape Fruit

Preserves

Cherry
 Pineapple (Shredded)

Sauce

Cranberry

1923 (Continued)

BEECH-NUT CALIFORNIA CONSERVES
Packed at San Jose, Cal.
in Glass Jars

Apricot Jam	Strawberry Preserves
Loganberry Jelly	Blackberry Jelly
Loganberry Preserves	

(Packed in Tin with Varnished Label)

Apricot Jam

BEECH-NUT JELLIED FRUITS
(Lithographed Tins)

Apricot	Blackberry	Cherry	Loganberry	Peach
	Pineapple	Plum	Raspberry	

BEECH-NUT CHEWING GUM

BEECH-NUT MINTS

Peppermint Wintergreen Clove Cinnamon Spearmint

BEECH-NUT FRUIT DROPS

Anise	Lemon	Lime	Orange
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BEECH-NUT CARAMELS

BEECH-NUT BEVERAGES

Ginger Ale	Birch	Root	Sarsaparilla
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PLAINTIFF'S EXHIBIT NO. 36—ADVERTISEMENT
OF BEECH-NUT CIGARETTES, NEW YORK
EVENING SUN.



The advertisement features a pack of Beech-Nut Cigarettes on the left. The pack is white with a dark border and a circular logo in the center. The logo contains the text "BEECH-NUT" at the top, "PERFECT CIGARETTES" in the middle, and "Lorillard Co." at the bottom. Above the logo, there is a small illustration of a cigarette being lit. Below the pack, the text "20 for 15¢" is printed.

You can't help but
like them!

They are DIFFERENT

They are GOOD

BEECH-NUT
CIGARETTES

PLAINTIFF'S EXHIBIT NO. 38—BERRY PHOTOGRAPH OF AUSTER WINDOW DISPLAY, BALTIMORE.



Photo by Berry



**PLAINTIFF'S EXHIBIT NO. 40—" THE NATIONAL
FINANCIAL NEWS" OF MAY 28, 1923.**

Title Page Heading:

"THE NATIONAL FINANCIAL NEWS."

A Weekly Newspaper of American Finance.

Issued Every Monday Published by Plummer Publications, Inc. 5c per copy
Vol. I. No. 4. May 28, 1923. 120 Broadway, New York, N. Y. \$2.00 yearly

Page 2, third column:

BEECH-NUT PACKING CO.

EARNING NEARLY \$9 SHARE.

COMPANY IN STRONG FINANCIAL CONDITION—

LARGE WORKING CAPITAL.

Beech-Nut Packing Co. is at present earning at the annual rate of nearly \$9 a share on its common stock, based on net earnings for the first three months of 1923, which amounted to, before preferred dividends, \$595,737, against \$392,291 reported for the corresponding period in 1922. Net earnings in 1922 amounted to \$1,937,480, which, after preferred dividends, was equivalent to \$7.42 a share on the common stock. These earnings are in sharp contrast with the present \$2.40 annual dividends being paid on the common shares.

PRODUCTS WELL KNOWN.

The Beech-Nut Packing Company does a general meat and fruit business and its products are widely diversified. The business includes the curing of meat products, preservation of fruits, manufacture of ketchup, peanut

butter, macaroni, jams, jellies, sauces, chewing gum and confections; bottling of vinegar and ginger ale, and the marketing of these products; and the company has more recently added the manufacture of cigarettes and smoking tobacco and candy. Practically all of these products are distributed under the trade-name, "Beech-Nut," and are widely advertised and reputably known all over the world. The company was incorporated in 1899, and owns the stock of subsidiary companies, as follows: Fairmont Box Co., Oscar & Co., Beech-Nut Co. of Calif., Montgomery Electric Light & Power Co., Canajoharie Supply Co., and Beech-Nut Foil Co., Inc. Beech-Nut Packing Company operates two plants at Canajoharie, N. Y., one at Rochester, N. Y., and another at Brooklyn, N. Y. The Canajoharie plants consist of 23 buildings having a total floor space of 328,766 square feet; the Rochester plant is made up of 14 buildings with 123,233 square feet of floor space; and the Brooklyn plant consists of 70,000 square feet of floor space in the Bush Terminal Building, 47,000 square feet of which is utilized in the making of Beech-Nut chewing gum and the balance is sublet to the Beech-Nut Foil Co., Inc., for the manufacture of tin foil.

CAPITALIZATION—DIVIDENDS.

The company has no funded or bonded indebtedness. Ahead of the common stock which is of \$20 per share par value and outstanding at 250,000 shares, there are two preferred stock issues, Class "A" being 7 per cent cumulative \$100 par, and outstanding at \$4,500, and convertible, on a share-for-share basis, into Class "B" preferred, which is also 7 per cent cumulative, \$100 par, and is outstanding at \$1,119,500. The preferred dividends

have been paid at the regular prescribed rate since organization. Common dividends are now being paid at the rate of \$2.40 per share annually.

STRONG FINANCIAL POSITION.

The company enjoys a strong financial position. Its balance sheet as of December 31, 1922, shows total current assets of \$5,420,482, compared with \$4,785,062 at the end of the 1921 year, and against total current liabilities of only \$781,892, leaving a net working capital of \$4,638,500. Net working capital at the end of the previous year amounted to \$4,105,085. The company has about \$800,000 in cash.

**PLAINTIFF'S EXHIBIT NO. 41.—CERTIFIED COPY,
DECISION OF EXAMINER OF INTERFERENCES
IN PATENT OFFICE TRADE-MARK OPPOSITION
NO. 2805.**

Final Hearing

May 4, 1921

IN THE UNITED STATES PATENT OFFICE.

Opposition No. 2805.

P. Lorillard Company v. Beech-Nut Packing Company.

Application No. 119,930, filed June 25, 1919,
published Sept. 9, 1919.

CIGARETTES.

MESSRS. MEYERS, CUSHMAN & REA, and MEYERS, CAVANAGH
& HYDE, for P. Lorillard Company.

Mr. JAMES R. OFFIELD for Beech-Nut Packing Company.

This is an opposition filed under the provisions of section 6 of the Trade-Mark Act of February 20, 1905, and involves the right of the applicant to obtain the registration for which it has made application.

In the drawing forming part of the application involved herein is disclosed the word "Beech-Nut" and is for use on cigarettes.

The grounds of the opposition are set forth in eleven paragraphs but they all relate to use in trade by the opposer of a substantially similar mark upon tobacco. Both parties have filed testimony and briefs. These facts are very fairly stated in the briefs of both parties.

The conflict exists as in the interpretation of these facts.

The record shows that in about 1891 the predecessor of the applicant, namely, the Imperial Packing Company, was engaged in general meat-packing business. In 1899 the business of the Imperial Packing Company was taken over by the applicant which was then incorporated under the name of the Beech-Nut Packing Company. The latter concern seems to have been very active in extending its business in various lines, from 1899 to the present time. The goods sold by this company are quite numerous and include a varied line of groceries, meat products, candy and chewing gum. On each and all of these products the word "BEECH-NUT" has been employed, and it is the symbol of a very valuable good will associated with the business of the applicant. This business is said to amount to about a million dollars monthly.

The business of the opposer is that of manufacturing and selling tobacco. It is the owner of some of the oldest and most valuable brands now on the market and has been continuously engaged in the tobacco business for more than a century. It clearly appears that in February, 1915, it placed on the market a scrap tobacco having a label thereon like its Exhibit No. 16. The dominant feature of the mark shown thereon is the word "BEECH-NUT." It further appears that this tobacco has since been extensively and continuously sold by the opposer in very large quantities. At the present time it amounts to about a million dollars monthly, which approximates in amount the entire business of the applicant on all its products.

It further appears that the opposer in 1913 acquired from the Luhrmann & Wilbern Tobacco Company all the business of the latter company together with certain brands which it in turn had acquired from the Harry Weissinger Tobacco Company through the Continental

Tobacco Company. Among the brands which have been in use by predecessors of the opposer is that shown by opposer's Exhibit No. 17. This discloses as a prominent feature thereof the word "BEECHNUT," associated with the representation of a squirrel. The record clearly shows (see opposer's Exhibit No. 1) that considerable quantities of this tobacco were sold by Luthmann & Wilbern Tobacco Company during the years 1904, 1905, 1906, and 1907; that in 1908 the sales thereof commenced to decrease rapidly, so that in 1910 but 25 lbs. were sold and during the years 1911 and 1914 none whatever was sold by either the opposer or its predecessors in business.

The opposer seeks to carry its use in trade of the word "BEECH-NUT" back to 1896 or 1897, the date which it is claimed its predecessors in business, the Harry Weisinger Tobacco Company, adopted the mark disclosed in its Exhibit No. 17. The applicant contends that the mark disclosed in opposer's Exhibit No. 17 had become abandoned in 1915, the date when the opposer commenced to use its Exhibit No. 16. The opposer contends that the inference of abandonment is not justified and is rebutted by the following circumstances; viz., the existence during the period in question of tobacco suitable for use, the formula, wrappers and packages and willingness to fill any order if it had been received. The examiner is unable to attach thereto the significance that opposer does. For the keeping of wrappers might be either accidental or intentional. If intentional it would be accounted for as an act of caution, considering the evanescent character of tobacco brands. The tobacco could and presumably was used in the manufacture of other brands and formulae are kept even of brands which become abandoned. In connection with the willingness to fill orders, the inherent probability of obtaining such an order must be considered.

What seems to the examiner of more significance is the character of the label found on opposer's Exhibit No. 16 when considered in connection with opposer's Exhibit No. 17. Considering the great care which is exercised by traders generally to keep intact the dress and style of the label for the purpose of preserving any good will that may be symbolized thereby, the difference between the label found on Exhibits 16 and 17 seems highly significant. The record fails to show any of the circumstances which resulted in the adoption of the design found on opposer's Exhibit No. 16, although Boykin, one of the managers for the opposing company, was cross-examined somewhat at length relative thereto (see pages 60 to 72, inclusive). If the originator of the label shown on opposer's Exhibit No. 16 was aware at the time of its adoption in 1915 of the label found on opposer's Exhibit No. 17, Exhibit No. 16 is mute testimony that its originator deemed the good will that was at one time symbolized by opposer's Exhibit No. 17 to have in 1915 little or no value. The further circumstance that the opposer carefully preserved the dress of other brands which it had acquired from its predecessors tends to emphasize this significance of Exhibit No. 16 (see Beech-Nut Cross-exhibits 1, 1a, 2, 2a, 2b, 2c, 2d, 3 and 4 in connection with the deposition of Bowman, a witness for the opposer).

It seems to the examiner that in February, 1915, the trade-mark right evidenced by opposer's Exhibit No. 17 was not merely sleeping but actually dead and abandoned. The circumstances of this case resemble those found in the case of Levering Coffee Company v. Merchants Coffee Company, 181 O. G., 1075; 1912 C. D., 547; 39 App. D. C., 151. In view of conclusion just referred to whatever rights the opposer may have to use the

work "BEECHNUT," it is believed, must be predicated on its use which was commenced in February, 1915. The character thereof is evidenced by opposer's Exhibit No. 16.

The opposer contends that in 1915 it had a right to use the mark disclosed in its Exhibit No. 16 because tobacco possess different descriptive properties from any goods which were then manufactured and sold by the applicant. The record shows that in 1915 and just prior thereto the applicant was selling meat products, groceries, candy and chewing gum.

There is no reasonable doubt in the mind of the examiner that, generally speaking, a mark can be used on tobacco which is identical with the mark used by another on meat products, groceries, candy, or chewing gum without any confusion of origin occurring (*Johnson Educator Food Co. v. Sylvanus Smith & Co., Inc.*, 175 O. G., 268; 37 App. D. C., 107; *The Quaker Oats Co. v. Mother's Macaroni Company*, 198 O. G., 899; 41 App. D. C., 254; *Paul F. Beich Company v. Kellogg Toasted Corn Flakes Company*, 271 O. G., 361; 49 App. D. C., 186; *Rueckheim Bros. & Eckstein v. Texas Gum Co., Inc.*, Vol. 119, p. 28). Therefore it is believed that tobacco does not possess the "same descriptive properties" as either meat products, groceries, candy, or chewing gum.

The applicant in effect contends that the goods just mentioned do possess the same descriptive properties, since in the case at bar it appears from the testimony that in some instances at least confusion of origin has actually occurred (see "Correspondence" exhibit of applicant; also see the testimony of Wood, Q. 12; Sharpe, Qs. 14-15, and X-Qs. 30 to 37, inclusive; Weevel, Qs. 5 to 13, inclusive, and Yunkers, Qs. 14 to 23, inclusive). The examiner recognizes that if goods do possess the

same descriptive properties that confusion of origin will necessarily follow. The converse of this proposition, namely, if confusion of origin exists then that the goods possess the same descriptive properties, does *not*, however, necessarily follow. For confusion in origin may and sometimes does occur as a consequence of the significance to the public which a particular symbol has acquired. Thus, for instance, the examiner has no doubt that confusion of origin could occur by reason of the use in trade of the symbols "Ford" or "Coca Cola" on goods which possess descriptive properties which are clearly different from either automobiles or beverages. Such confusion of origin could not occur if another symbol having no such significance were substituted for these symbols. Thus, for instance, if the word "Ajax" were substituted for the symbols just mentioned, such confusion of origin would not occur. This shows that if the marks are identical, confusion of origin does not necessarily result merely from the descriptive properties of the goods on which the marks are used.

In the case at bar the record shows that the symbol used by the applicant has behind it a very extensive advertising campaign which is national in extent, coupled with the circumstances that the goods of the applicant are of excellent quality. This accounts for the significance of the symbol as used by the applicant and sufficiently explains the result shown by the testimony relied upon by the applicant to show actual confusion.

It seems to be contended in effect by the applicant (see bottom of page 22 of brief) that these meritorious efforts of the applicant are relevant and material to the determination of the question whether the goods do or do not possess the "same descriptive properties." With this contention the examiner is unable to agree. For the

determination of the question whether two specific goods do or do not possess the same descriptive properties seems to the examiner to be inherently of such a nature as to turn *solely* on the properties of the goods that are known to the trade. In this respect it is believed to resemble a determination made in a proceeding *in rem* rather than *in personam*.

At common law, the determination of the question whether certain goods do or do not possess the same descriptive properties involves not merely the rights of the particular parties to a proceeding but also the substantive rights of other traders. Certainty of definition of these rights is highly desirable if trade is to be encouraged. This certainty is no less desirable than it is in connection with the question of negotiability of a bill or note and for the same fundamental reasons.

The special significance that has been impressed upon the symbol by the efforts of the applicant is material and relevant to the question of confusion of origin and is considered by the courts in a certain type of unfair competition case. Since such special significance varies with the trader using the symbol, it is a transient factor. It is therefore inevitable that if this factor is considered as a basis for determination of the question of whether the goods do or do not possess the same descriptive properties, such determinations will necessarily be conflicting. In this type of unfair competition case, it is stated by a recent writer that "to reconcile the decision of the courts is hopeless" (Good Will Trade-Marks and Unfair Competition, Rogers, Chapter XXVI, page 255).

In the case at bar any diversion of good will resulting from this special significance of the symbol used by the applicant can be readily prevented through the control of a court by the manner of the use in trade of the mark

disclosed in opposer's Exhibit No. 16. An example of such control is disclosed in the case of Elgin National Watch Company v. Illinois Watch Case Company, 179 U. S., page 665. For the reasons stated herein the examiner believes that this question of significance should not be considered as relevant or material to the question of whether the goods of the opposer do or do not possess the same descriptive properties.

Since it is believed that the goods in question do not possess the same descriptive properties, it seems clear to the examiner that the opposer in 1915 had the *right to use* the mark disclosed in its Exhibit 16 on tobacco subject only to the well established principles relating to unfair trade (Johnson Educator Food Co. v. Sylvanus Smith & Co., Inc., *supra*; The Quaker Oats Co. v. Mother's Macaroni Co., *supra*; The Rookwood Pottery Company v. The A. Wilhelm Company, 212 O. G., 1691; 43 App. D. C., 1; The Denver Gas & Electric Light Company v. The Alexander Lumber Company, 283 O. G., 182; App. D. C.; The Hump Hairpin Company v. The DeLong Hook & Eye Company, 190 O. G., 1032; 39 App. D. C., 484; G & J Tire Company v. G. J. G. Motor Car Company, 190 O. G., 550; 39 App. D. C., 508).

The conclusion just reached relative to the right of the opposer to use the mark disclosed in its Exhibit 16 on tobacco is believed to be not adversely affected by the circumstance that prior to 1915 the word "Beech Nut" was a prominent feature of the corporate name of the applicant. For, at common law the use of a corporate name is not a basis for legal damage unless it results in diversion of good will and such diversion, if any, can be readily prevented by control of the manner of use of a symbol without however stopping its use. Whether this circumstance would or would not prevent

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the opposer from obtaining registration is a question which is not determined since the opposer is not seeking registration and it is therefore deemed not to be in issue.

The applicant does not claim to have commenced using the word "Beech Nut" on any tobacco products prior to 1915, the date when the opposer commenced to use this word on tobacco products. Such use by the opposer is therefore deemed to be a bar to the application involved herein.

Accordingly the opposition is sustained, and it is adjudged that Beech-Nut Packing Company, the applicant, is not entitled to the registration for which it has made application.

Limit of appeal: October 28, 1921.

J. CARNES,

Examiner of Interferences.

October 8, 1921.

**PLAINTIFF'S EXHIBIT NO. 42.—CERTIFIED COPY,
DECISION OF ASSISTANT COMMISSIONER OF
PATENTS IN PATENT OFFICE TRADE-MARK
OPPOSITION NO. 2805**

Hearing:

Jan. 10, 1922.

IN THE UNITED STATES PATENT OFFICE.

P. Lorillard Company v. Beech-Nut Packing Company.

Opposition No. 2805.

Appeal.

TRADE-MARK FOR CIGARETTES.

Application of the Beech-Nut Packing Company, filed
June 25, 1919,

Serial No. 119,930, published Sept. 9, 1919.

MESSRS. MEYERS, CUSHMAN & REA and Messrs. MEYERS,
CAVANAGH & HYDE for P. Lorillard Company.

Mr. JAMES R. OFFIELD for Beech-Nut Packing Company.

This is an appeal from the decision of the examiner of interferences sustaining an opposition filed against the application for registration of "Beech Nut" for cigarettes filed by the Beech Nut Packing Company on June 25, 1919.

Under Section 7 of the trade-mark statute we are required to determine the question of the right of registra-

tion to the trade-mark. We are thus met in the beginning of the case with the question of whether applicant has such ownership in the mark as entitles it to registration. It is admitted that applicant has never manufactured cigarettes or other tobacco products. It is admitted that the only cigarettes or tobacco products in which applicant has dealt are 2,060 cigarettes which it purchased from the American Tobacco Company on an invoice dated July 12, 1919. These cigarettes were shipped by the American Tobacco Company in three lots, one to an officer of the company in New York City, another to a member of the firm of applicant's attorneys, of record here, at Chicago, and the third to the New Jersey Tobacco Company, Jersey City, N. J. The goods shipped to the New Jersey Tobacco Company had not been ordered, were not accepted, but were returned. There is no evidence that any of the Beech Nut cigarettes were ordered by the parties to whom they were shipped, nor is there any evidence that they were bought or paid for. It is admitted that aside from this single transaction applicant has never been in the tobacco or cigarette business. I am unable to see that this state of affairs is distinguishable from that condemned as not being sufficient to support a trade-mark registration in *Phillips v. Hudnut*, 1920, C. D., 164; 263 Fed. Rep., 643; 273 O. G., 629; 49 App. D. C., 247.

Applicant cites *B. Fischer & Company v. Knickerbocker Mills Company*, 1915, C. D., 71; 211 O. G., 955; 42 App. D. C., 570, but in that case apparently there had been a prior going business in the goods in issue. In *Breitenbach et al. v. Rosenberg*, 167 O. G., 763; 1911, C. D., 365; 37 App. D. C., 102, the business was a continuous business, although small in volume, but in the present

instance applicant has no business at all in cigarettes.

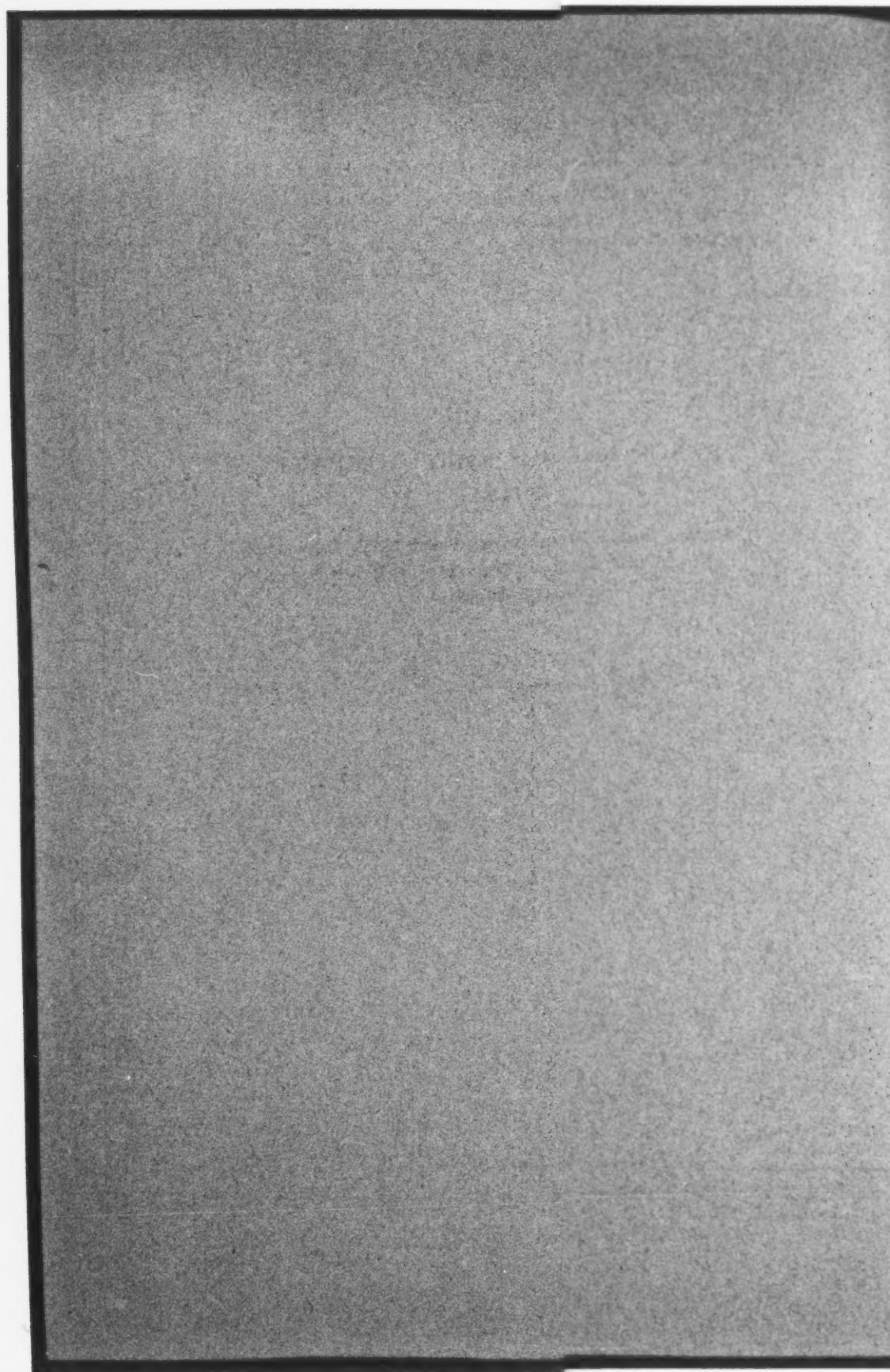
Applicant claims that having made this sale of cigarettes it discontinued the business for the time being, awaiting the outcome of the present application for trade-mark registration which it was prepared to make. The present application was filed June 25, 1919, almost two weeks after applicant had discontinued its activities. No question of abandonment of the mark is involved here as applicant has never owned the mark for cigarettes.

Applicant has established that it was using "Beech Nut" as a trade-mark for a large number of miscellaneous articles, saying:

"The Beech Nut Company in using its own label on cigarettes was operating within an exclusive right it has always had; this being so, neither the extent nor the method of exploitation of cigarettes is of any legitimate interest to opposer."

Applicant seems to argue that inasmuch as it was employing a trade-mark on one class of goods it was free at any time to employ that mark on another class of goods, and that in order to obtain registration in the second class of goods it was not necessary to carry on a business as to the second class of goods. This argument is not supported by any cases that I can find and does not seem sound. A trade-mark right grows only from use in a business and the use of the mark in one business does not afford sufficient foundation for a registration of the mark for another business. Moreover, applicant did not apply to its cigarettes a label like that used on all its other goods.

In the argument and in the briefs many other interesting questions are urged, but since applicant has no business on which to base its registration, the Patent Office has no jurisdiction of its case and anything we may say



**BEECH-NUT EXHIBIT—CERTIFIED COPY OF
CERTIFICATE OF INCORPORATION OF BEECH-
NUT PACKING COMPANY.**

(Cancelled Revenue Stamp
10 cents.)

We, the undersigned, all being persons of full age and at least two-thirds being citizens of the United States and at least one of us a resident of the State of New York, desiring to form a stock corporation pursuant to the provisions of the Business Corporations' Law of the State of New York, do hereby make, sign, acknowledge and file this certificate for that purpose, as follows:

FIRST:—The name of the proposed corporation is "Beech Nut Packing Company."

SECOND:—The purposes for which it is to be formed are to purchase or otherwise acquire, sell, trade in, cure, pack, smoke, treat and prepare for the market, all kinds of animal and food products and goods, wares and merchandise of every class and description; to conduct the business of slaughtering animals or a general abattoir and cold storage business; to conduct a general trading and manufacturing business; to apply for, register, purchase or otherwise acquire, and to hold, own, use and operate, and to sell, assign, grant licenses in respect of and otherwise dispose of and deal with and turn to account, any and all inventions, improvements, formulae, processes, trade names and trade marks, copyrights, letters patent of the United States, and of any and all foreign countries, and patent rights of all kinds relating to the business above mentioned; to enter into, make, perform and carry out contracts of every kind and for any lawful purpose with any person, firm, association or corporation relating to the business aforesaid; and in gen-

eral to do any and all acts necessary and convenient for the most ample exercise of all the purposes and objects above expressed or connected therewith.

THIRD:—The amount of the capital stock is One hundred and fifty thousand (150,000) Dollars.

FOURTH:—The number of shares of which the capital stock shall consist is Fifteen hundred (1,500) of the par value of One hundred (100) Dollars per share, and the amount of capital with which the Company shall begin business is Five hundred (500) Dollars.

FIFTH:—Its principal business office is to be located in the town of Canajoharie, in the County of Montgomery, in the State of New York.

SIXTH:—Its duration is to be One hundred (100) years.

SEVENTH:—The number of its directors is to be three.

EIGHTH:—The names and post-office addresses of the directors for the first year are as follows:

Name.	Post-office Address.
Edward B. Burnap,	Canajoharie, N. Y.
Frederick J. Winston,	32 Nassau St., New York.
William J. Arkell,	Canajoharie, N. Y.

NINTH:—The names and post-office addresses of the subscribers and a statement of the number of shares of stock which each agrees to take in the corporation, are as follows:

Name.	Post-office address.	Number of Shares.
Edward B. Burnap,	Canajoharie, N. Y.	1
Frederick J. Winston,	32 Nassau St., New York.	1
William J. Arkell,	Canajoharie, N. Y.	3
Total		5

IN WITNESS WHEREOF, we have made, signed, acknowledged and filed this Certificate in duplicate dated this 27th day of December, One thousand eight hundred and ninety-nine.

E. B. BURNAP
FREDERICK J. WINSTON
WILLIAM J. ARKELL

State of New York, County of New York, ss.

On this 27th day of December, 1899, before me personally came, FREDERICK J. WINSTON, and WILLIAM J. ARKELL, to me personally known to be two of the persons described in and who made and signed the foregoing Certificate, and they severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(Seal)

No. 160

BERTHA L. CLARKE

Notary Public

N. Y. Co.

State of New York, County of Montgomery, ss.

On this 28th day of December, 1899, before me personally came, EDWARD B. BURNAP, to me personally known to be one of the persons described in and who made and signed the foregoing certificate, and he duly acknowledged to me that he made, signed and executed the same for the uses and purposes therein set forth.

(Seal)

W. M. MURRAY

Notary Public

(Endorsed)

CERTIFICATE OF INCORPORATION OF BEECH NUT PACKING
COMPANY

Dated, December 27th, 1899.

Tax for privilege of organization of this Corporation.

$$\begin{array}{r} 50 \\ \$187 \frac{50}{100} \end{array}$$

Under Chapter 908, Laws of 1896.

Paid to State Treasurer before Filing.

STATE OF NEW YORK

Office of SECRETARY OF STATE

Filed and Recorded DEC. 29, 1899

J B H MONGIN

Deputy Secretary of State

State of New York, Office of the Secretary of State, ss.

I have compared the preceding with the original Certificate of Incorporation of "Beech Nut Packing Company" filed and recorded in this office on the 29th day of December, 1899, and do HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of said original.

Witness my hand and the seal of office of the Secretary of State, at the City of Albany, this thirteenth day of April, one thousand nine hundred and twenty.

E. W. TAFT,

(Seal)

Second Deputy Secretary of State.

BEECH-NUT EXHIBIT—STATIONERY OF 1892, IMPERIAL PACKING COMPANY.



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BEECH-NUT EXHIBIT—CORRESPONDENCE.

P. A. BARNETT

SAXTON, PA. Dec. 16, 1915.

THE BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Dear Sirs:

I have ordered a case of Beech-Nut Scrap some time ago and have not received it up to this writing. If you have not shipped it yet please do so at *once*.

Yours very truly,
P. A. BARNETT.

FEB. K 2/1/16

J. B. MALTBY, INC.,
Corning, N. Y.

Dear Sir:

We return your order for 100 cases Beech-Nut Scrap, evidently sent to us in error.

We believe that Lorillard Co., Middletown, O. are the manufacturers of these goods.

Yours very truly,
BEECH-NUT PACKING Co.

FEB. K 2/3/16

THE NEW RIVER Co.,
Macdonald, W. Va.

Dear Sirs:

We have your order No. 12770 calling for two gross of Beech-Nut Scrap Tobacco. We are not manufacturers of these goods, which we believe are made by Lorillard Co., Middletown, O.

Yours very truly,
BEECH-NUT PACKING Co.

FEB K 3/18/16

BENTLEY, SETTLE & Co.,
Syracuse, N. Y.

Dear Sirs:

We have your favor of the 17th inst. requesting us to ship direct to F. M. Blake & Sons, Fulton, N. Y., for your account 5 gross Beech-Nut Scrap.

We presume this refers to Beech-Nut scrap tobacco, which while it bears a label somewhat resembling that of the Beech-Nut Packing Co.'s is made by Lorillard Co. of Middletown, O.

We thank you for the order which, unfortunately, we are unable to fill.

Yours very truly,
BEECH-NUT PACKING Co.

SYRACUSE, N. Y. Feb. 16, 1917

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

Please ship direct to Graves & Moore, Wolcott, N. Y., for our account and prepay freight:

5 gross Beech-Nut Scrap.

Yours very truly,
BENTLEY, SETTLE & Co.

WEW—G March 22, 1917

L. GOLDSMIT, BRO. & Co.,
Pittsburgh, Pa.

Gentlemen:

We return your order of March 20th directed to us as you have ordered 200 boxes of Beech-Nut Scrap.

As we do not merchandise this product, believe that the order was sent to us through error. If you intended to order Beech-Nut Gum, please advise.

Yours very truly,
BEECH-NUT PACKING Co.

WEW—G May 7, 1917

KURTZ & MAYERS,
Reading, Pa.

Gentlemen:

We return your order of May 4th which calls for 10 gross of Beech-Nut Tobacco, as we do not merchandize this product and know that you have confused this commodity with our goods.

Yours very truly,
BEECH-NUT PACKING Co.
Traffic Dept.

SPENCER HOGIN GROCERY & FRUIT CO.

MARION, IND.

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

Please ship in addition to standing order 50 containers Beech-Nut Scrap.

Yours truly,
SPENCER-HOGIN GROCERY & FRUIT Co.

WEW/G June 14, 1917

BARKER & WHEELER Co.,
Peoria, Ill.

Gentlemen:

We return your order of June 11th which calls for one carton of Beech-Nut Chewing tobacco.

We do not manufacture or merchandise this product.

Yours very truly,

BEECH-NUT PACKING Co.

WEW—A June 30, 1917

BENTLEY, SETTLE & Co.,
Syracuse, N. Y.

Gentlemen:

We return your order of June 29th which calls for 5 gross of Beech-Nut Scrap. We believe you sent this order to us through error as we do not manufacture this product.

Yours very truly,

BEECH-NUT PACKING Co.

WEW—A July 19, 1917

WM. DEICHES & Co.,
115 S. Eutaw St.,
Baltimore, Md.

Dear Sirs:

We have your letter of the 17th stating that on June 27th you submitted an order to us for 15 cases Beech-Nut Scrap 5¢ size to be shipped to the Neudecker Tobacco Co. of your city. We have no record of receiving this order here and same would have been returned to you in view

of the fact that we do not merchandise this product. We know that you have this firm confused with the producers of Beech-Nut Scrap Tobacco.

Yours very truly,
BEECH-NUT PACKING Co.

WEW/C July 26, 1917

KURTZ & MAYERS,
Reading, Pa.

Gentlemen:

We return your letter of the 24th which calls for 5 gross of Beechnut Scrap Tobacco to be shipped to your store at Sunbury, Pa.

We are not the manufacturers of this product and believe you have sent the order to us through error.

Yours very truly,
BEECH-NUT PACKING Co.

WEW/G Feb. 14, 1918

LAUDERBACH-ZERBY Co.,
Philipsburg, Pa.

Gentlemen:

We return your order #10725 which you have sent us in error as you have ordered a quantity of Beech-Nut Scrap Tobacco, which is not produced by us.

Yours very truly,
BEECH-NUT PACKING Co.

BANGOR, ME., July 25, 1918

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

Kindly ship the one gross Beech-Nut Scrap Chewing Tobacco to the University Store Company, Orono, Maine, as per our order July 9th, and which was corrected in your letter to us of July 12th, and oblige,

Yours respectfully,

ARTHUR CHAPIN CO.

BINGHAMPTON, N. Y., Oct. 3, 1918

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

Please ship for our account to
O. F. Potter, Ulster, Penn.

10 cases Beechnut Scrap, 1¼ gro. each.

Yours truly,

NEWELL & TRUESDELL.

WEW—G Nov. 15, 1918

LOGAN GROCERY Co.,
Logan, W. Va.

Gentlemen:

We return your order of Nov. 12th for 4 cases of Beech-Nut Tobacco and 1 case of Honest Tobacco.

We do not merchandise these products.

Yours very truly,

BEECH-NUT PACKING Co.

WEW—G Dec. 16, 1918

PETERSON-WETER Co.,
Buffalo, N. Y.

Gentlemen:

We have your letter of the 13th requesting us to ship
J. D. Murray, Corry, Pa., four one quarter gross pack-
ages of Beechnut scraps.

We do not manufacture this product.

Yours very truly,

BEECH-NUT PACKING Co.

ITHACA, N. Y. April 6, 1920

BEECH-NUT PACKING Co.,
Canajoharie, N. Y.

Gentlemen:

Please enter our order to be shipped as soon as pos-
sible,

50	cases	Beech-Nut	Scrap	1¼	gross	each
50	"	"	"	1½	"	"

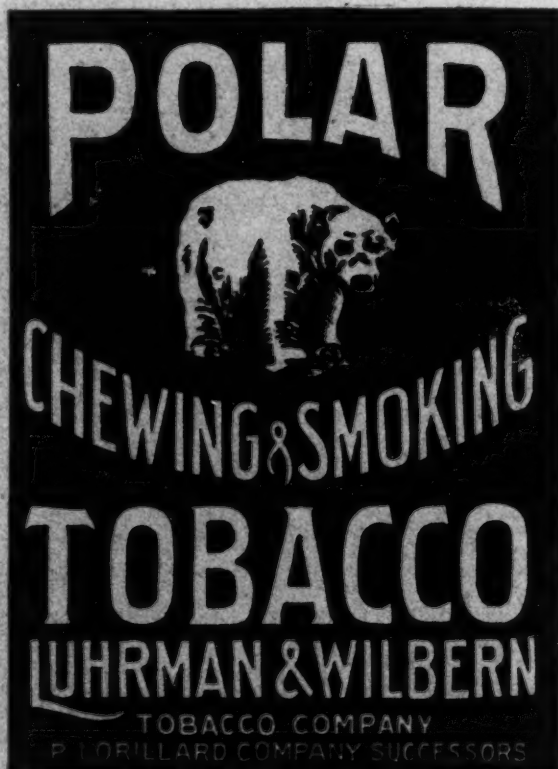
Yours very truly,

D. B. STEWART & Co.

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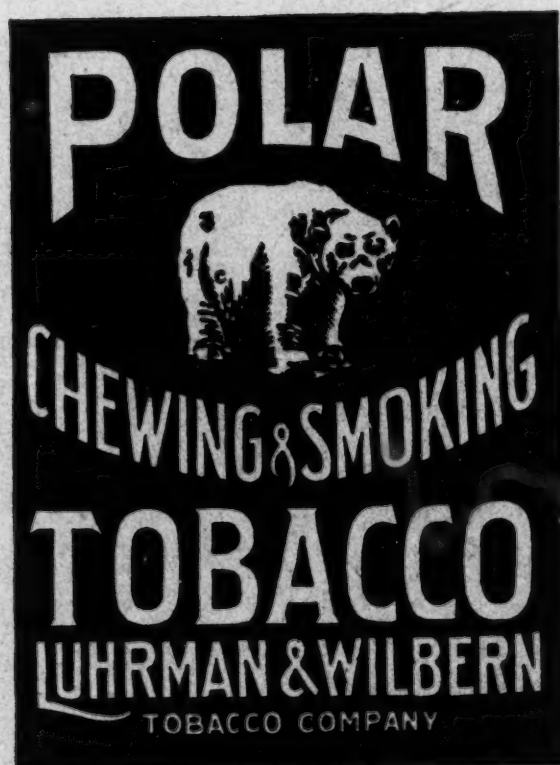
BEECH-NUT CROSS EXHIBIT NO. 1—P. LORILLARD
COMPANY "POLAR BEAR" SCRAP TOBACCO
BAG.



TRADE MARK REGISTERED.
Factory No. 6, First Dist. Ohio.

NOTICE—The manufacturer of this tobacco has complied
with all the requirements of law. Every person is cautioned, un-
der penalties of law, not to use this package for tobacco again.

BEECH-NUT CROSS EXHIBIT NO. 1-A—LUHRMAN
& WILBERN "POLAR BEAR" SCRAP TOBACCO
BAG.

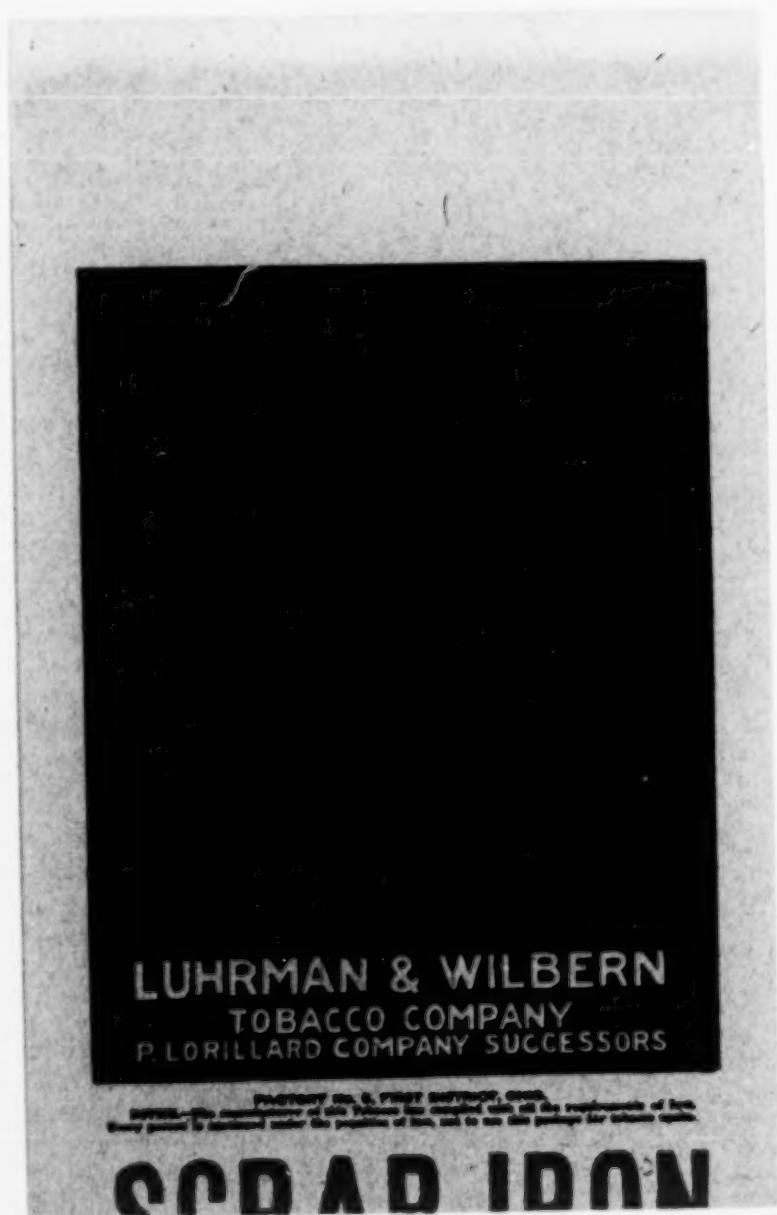


TRADE MARK REGISTERED.

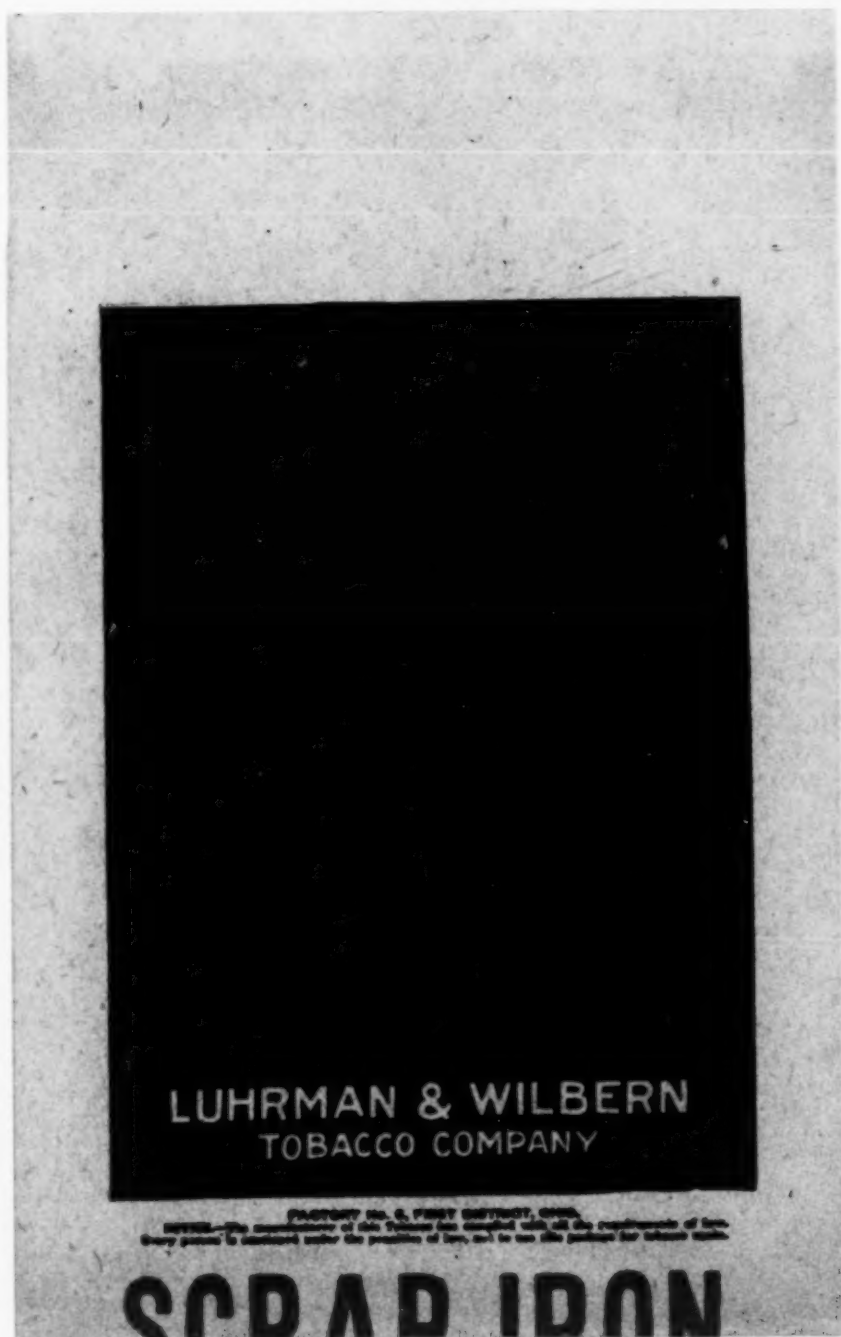
Factory No. 6, First Dist. Ohio.

NOTICE.—The manufacturer of this tobacco has complied with all the requirements of law. Every person is cautioned, under the penalties of law, not to use this package for tobacco again.

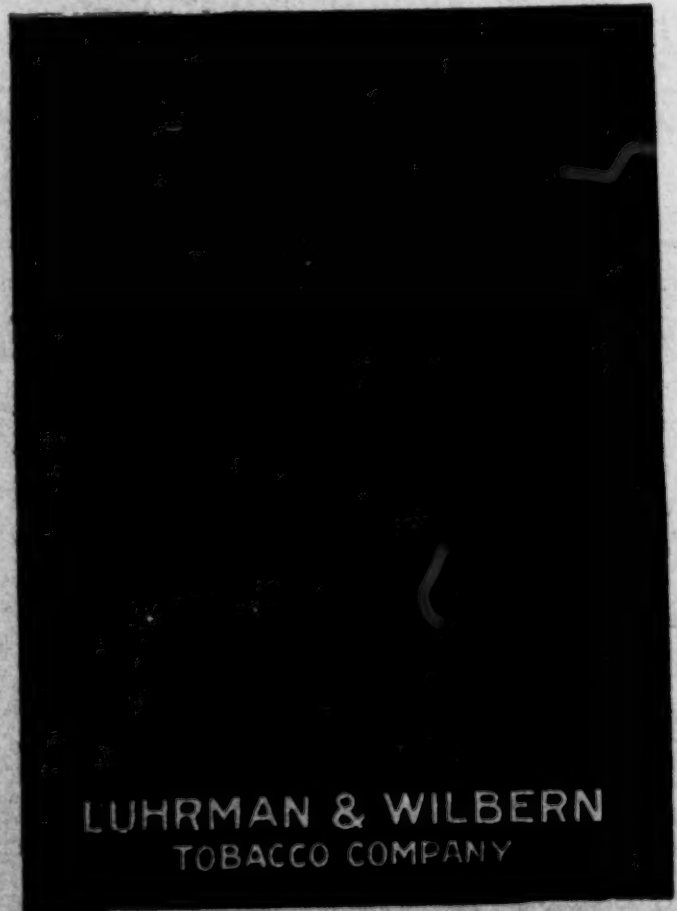
**BEECH-NUT CROSS EXHIBIT NO. 2—P. LORILLARD
COMPANY "SCRAP IRON" SCRAP TOBACCO
BAG.**



BEECH-NUT CROSS EXHIBIT NO. 2-A—LUHRMAN
& WILBERN "SCRAP IRON" SCRAP TOBACCO
BAG.



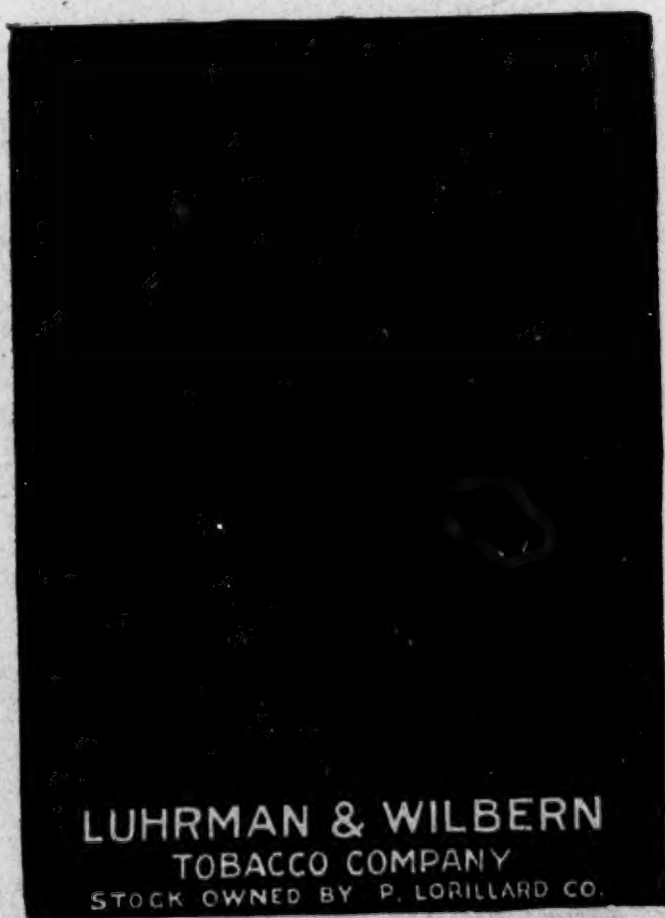
BEECH-NUT CROSS EXHIBIT NO. 2-C—P. LORILLARD COMPANY "SCRAP IRON" SCRAP TOBACCO BAG BEARING WORDS "STOCK OWNED BY P. LORILLARD CO." IN RUBBER STAMP.



STOCK OWNED BY P. LORILLARD CO.

IRON SCRAP

BEECH-NUT CROSS EXHIBIT NO. 2-D—P. LORILLARD COMPANY "SCRAP IRON" SCRAP TOBACCO BAG BEARING WORDS "STOCK OWNED BY P. LORILLARD CO." PRINTED.



FACTORY NO. 2, FIRST DISTRICT, OHIO.
 NOTICE—The manufacturer of this Tobacco has complied with all the requirements of law.
 Every packet is contained under the protection of law, not to use this package for tobacco again.

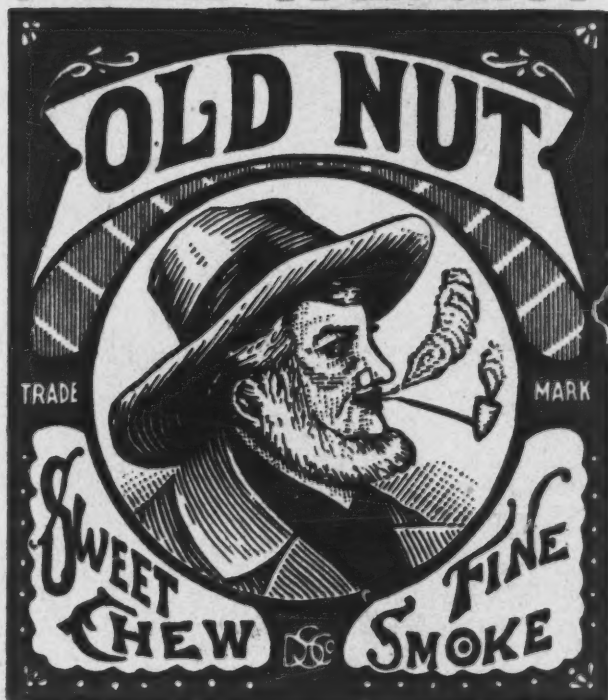
SCRAP IRON

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BEECH-NUT CROSS EXHIBIT NO. 3.—P. LORILLARD COMPANY "OLD NUT" SCRAP TOBACCO BAG.

FULL WEIGHT



OLD

2862

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BEECH-NUT CROSS EXHIBIT NO. 4.—P. LORILLARD COMPANY "BAG PIPE" SCRAP TOBACCO BAG.



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**BEECH-NUT CROSS EXHIBIT—LORILLARD
BEECH-NUT CIGARETTES WRAPPER.**

NOTE: This Exhibit wrapper is identical with Exhibit 3 in Bill of Complaint,—which see (Transcript, Vol. I, page 19); and also identical with the wrapper of P. Lorillard Co. Exhibit No. 6 (*post*, page 265).

BEECH-NUT CROSS EXHIBIT—TRADE-MARK REGISTRATION NO. 89,613.

UNITED STATES PATENT OFFICE.

BEECH-NUT PACKING COMPANY, OF CANAJOHARIE, NEW YORK.

TRADE-MARK FOR CERTAIN FOODS.

89,613.

Registered Dec. 31, 1912.

Application filed March 22, 1909. Serial No. 41,324.

STATEMENT.

To all whom it may concern:

Be it known that BEECH-NUT PACKING COMPANY, a corporation duly organized under the laws of the State of New York, and located and doing business at Canajoharie, county of Montgomery, in said State, has adopted for its use the trade-mark shown in the accompanying drawing, the annular band being red, for cured ham, bacon, beef, codfish, and herring, sausage, Camembert cheese, pimento-cheese, Roquefort-type cheese, peanut-butter, canned beans, canned bacon and beans, canned beans with tomato sauce, canned bacon and beans with tomato sauce, canned beans and selected pork, malt vinegar, cider vinegar, olive-oil, gelatin, tomato catsup, prepared mustard, strawberries, raspberries, and cherries preserved in syrup, grape, quince, fig, peach, blackberry, raspberry, strawberry, cherry, and plum jams, blackberry, pineapple, huckleberry, cherry, and ginger pear preserves, cranberry sauce, olives, orange, grape-fruit, rhubarb, and lime-fruit marmalades, spiced plums, preserved Persian and Fard dates and figs, quince, apple, black-currant, grape, crabapple, and red-currant jellies, peppermint, lime, wintergreen, clove, cinnamon, lemon, hoarhound,

and anise cut candies, wintergreen, mint, and vanilla cream candies, and chewing-gum, all in Class 46, Foods and ingredients of foods.

The trade-mark has been continuously used in the business of said corporation, and in the business of its predecessor, the Imperial Packing Company, since the latter part of the year 1899.

The said corporation is the owner of the following trade-mark registrations in the United States Patent Office:—Imperial Packing Company, No. 19,838, July 7, 1891; Imperial Packing Company, No. 24,978, July 3, 1894; Beech-Nut Packing Company, No. 35,731, Jan. 8, 1901; Beech-Nut Packing Company, No. 36,444, May 21, 1901.

The trade-mark is applied or affixed to the goods or to the packages containing the same by placing thereon a printed label on which the trade-mark is shown, and by branding the goods, or the boxes or cases in which the said goods or packages are shipped, with an impression showing the said trade-mark.

BEECH-NUT PACKING COMPANY,
By BARTLETT ARKELL,
President.



DECLARATION.

State of New York county of New York ss.

BARTLETT ARKELL, being duly sworn, deposes and says that he is the president of the corporation applicant named in the foregoing statement; that he believes the foregoing

statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the

right to use said trade-mark in the United States, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said trade-mark is used by said corporation in commerce among the several States of the United States, and between the United States and foreign nations, and particularly with Great Britain and France; that the drawing presented truly represents the trade-mark sought to be registered; and that the speci-

mens show the trade-mark as actually used upon the goods.

BARTLETT ARKELL.

Subscribed and sworn to before me, a notary public, this 25th day of September, 1912.

[L. s.] S. V. MORRIS,
*Notary Public, 121, New York County,
Register's No. 3236.*

Part III.
DEFENDANT'S EXHIBITS.

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**DEFENDANT'S CROSS EXHIBIT NO. 2—PACKAGE
OF BEECH-NUT CHEWING GUM.**

[NOTE: Replica of the wrapper on the Exhibit package:]



DEFENDANT'S CROSS EXHIBIT NO. 5—ADVERTISEMENT OF BEECH-NUT CIGARETTES, BOSTON HERALD OF AUGUST 18, 1921.



The advertisement is a black and white illustration. On the left is a pack of Beech-Nut Cigarettes. The pack is tilted and shows the brand name 'BEECH-NUT' in a large, bold, serif font. Below it, in a smaller font, is 'PERFECT CIGARETTES'. At the bottom of the pack, the manufacturer's name 'Flonillard Co.' is written in a cursive script. A small, open pack of cigarettes is shown above the main pack, also displaying the brand name. To the right of the cigarette pack, the text 'You can't help but like them!' is written in a simple, sans-serif font. Below this, the phrases 'They are DIFFERENT' and 'They are GOOD' are written in a similar font, with 'DIFFERENT' and 'GOOD' in all caps. At the bottom right, the words 'BEECH-NUT CIGARETTES' are printed in a large, bold, sans-serif font. In the bottom left corner of the advertisement, the text '20 for 15¢' is written in a simple font.

You can't help but like them!

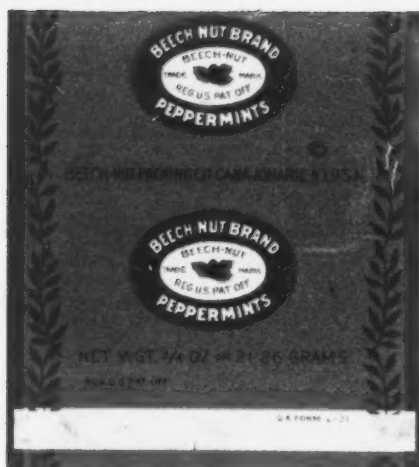
They are DIFFERENT
They are GOOD

BEECH-NUT
CIGARETTES

20 for 15¢

**DEFENDANT'S CROSS EXHIBIT NO. 6 — PACKAGE
OF BEECH-NUT PEPPERMINTS.**

[NOTE: Replica of the wrapper on the Exhibit package:]



DEFENDANT'S CROSS EXHIBIT NO. 8—BEECH-
NUT BACON LABEL.



THE HISTORY OF THE
CITY OF LONDON

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DANT'S EXHIBIT NO. 11—PHOTOGRAPH, WEST HAVEN DRUG STORE DISPLAY.

The Chocolate Cigarette



Quality Superb



BOXES OF 10 AND 20

There is more satisfaction

Quality



You can't help but like them!


They are DIFFERENT
They are GOOD

20 for 15 cents

AR

is more **Economical**

Quality



You can't help but like them!

They are DIFFERENT
They are GOOD

20 for 15 cents

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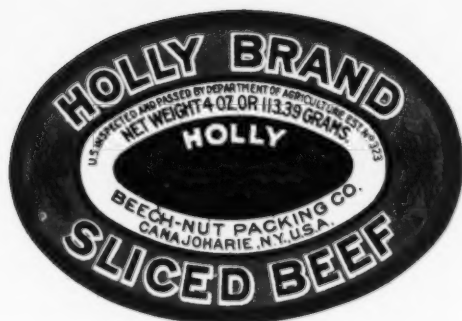
DEFENDANT'S CROSS EXHIBIT NO. 16—ERIE
BRAND LABEL.



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DEFENDANT'S CROSS EXHIBIT NO. 17—HOLLY
BRAND LABEL.



**DEFENDANT'S EXHIBIT NO. 18—PAMPHLET
ENTITLED "CORRESPONDENCE—BEECH-NUT
PACKING COMPANY AND P. LORILLARD COM-
PANY—IN RE 'BEECH-NUT' TRADE-MARK".**

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BEECH-NUT PACKING COMPANY

CANAJOHARIE, N. Y.

6/11/15

LORILLARD Co.,
Middletown, O.

Dear Sirs:

We adopted many years ago as our trade name the word "Beech-Nut" arbitrarily selected by us as the mark or name for our manufacturing output of food material. We also associated with such trade name "BEECH-NUT" and as a part of the trade mark, an oblong or oval frame or border of a red color surrounding and enclosing a white oblong space with a picture or representation of a Beech-Nut centered therein.

We have built up during the last quarter of a century a vast trade in our products and always with our trade name or trade mark associated therewith. We have expended a very large sum of money in so doing and the word or name "BEECH-NUT" and our trade mark has become of vast value to us not only for these reasons but for the reason of a high quality and perfection of the various products manufactured by us to which this name and mark has been applied.

So completely has this name and mark been attached to and associated with our goods during all of these years that the purchasing public has come to recognize this name and mark as our property as to origin and to purchase the manufacture and output to which this name and mark is applied without any further identification as to the origin of the word or name itself, believ-

ing that wherever they see our name and mark applied that we are the manufacturers of the product and purchase accordingly.

We have from time to time added to the variety of our manufacturing commodities to which this name or mark has always been applied; as for example, a chewing gum product of somewhat recent production upon our part. While we have never as yet manufactured tobacco, the taking on of such manufacture in the future is by no means impossible or improbable. You will also see that the name or word "BEECH-NUT" is a part of our corporate name. We have been thus particular to state this matter to you by reason of the acts upon your part which now follow.

We have been shown a lined bag evidently employed for packing "Beech-Nut Scrap Tobacco," apparently manufactured by one of your factories at Middletown, O. A prominent feature upon the bag is our trade name "BEECH-NUT," including the oval band and our characteristics burrs and nuts. It is difficult to believe that the presence of our trade name "Beech-Nut" and mark upon the bag will not deceive the purchasing public in the belief that the contents of the bag are of our manufacture, and to us there is no other explanation to be given to the presence of our trade name "Beech-Nut" and mark upon this bag except the intention on your part that the public shall be so deceived: and you will sell your tobacco by reason of the presence thereon of our name and mark. In other words, these acts strongly indicate to us intentional unfair trading.

We have decided in the first instance to write you fully as to this matter and present to you our view of your acts and to request to you immediately to cease this use of our name and mark and give us written assurance of the same.

We have confidence that now your attention is called to it you will recognize the justice of our position and that there will hereafter be no necessity of using any harsher course to enforce recognition of the same. We have been thus particular also for the reason that there can be no contention hereafter that we have not fully stated your position and ours in this matter. An early reply upon your part is requested and expected.

Yours very truly,

BEECH-NUT PACKING Co.,
F. E. Barbour.

BEECH-NUT PACKING COMPANY
CANAJOHARIE, N. Y.

6/18/15.

P. LORILLARD Co.,
Middletown, O.

Dear Sirs:

Will you kindly advise if we may expect an early reply to our recent communication with reference to the use of the word "Beech-Nut" in connection with your new brand of chewing tobacco?

Yours very truly,

BEECH-NUT PACKING Co.,
F. E. Barbour.

June 23, 1915.

BEECH-NUT PACKING COMPANY,
Canajoharie, N. Y.

Dear Sirs:

Your letters of June 11th and June 18th addressed to this Company at Middletown, Ohio, relative to the use by us of the name "Beech-Nut" for Scrap Tobacco, have been referred to me.

Preliminary to any discussion of the matter, will you be good enough to let me know when you first began to use the name "Beech-Nut?" I notice on your letterhead, "Incorporated 1899," but this of course does not necessarily mean that you began to put products on the market under the name "Beech-Nut" at that time.

The statement in your letter of June 11th, that you believe we are using the name "Beech-Nut" with the intention that the public shall be deceived into thinking that our product is of your manufacture, is not only without the slightest warrant, but is little short of ridiculous. As a matter of fact, if such an impression should be formed, it would be to our detriment.

Yours very truly,

TSF/L

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

7/2/15.

P. LORILLARD Co.,
119 W. 40th St.,
New York.

Mr. Thomas S. Fuller.

Dear Sirs:

Your favor of the 23rd ult. duly received.

Our "BEECH-NUT" trade mark and trade name has been used by ourselves and our predecessors since and prior to the year 1891. Both our trade mark and our trade name "BEECH-NUT" has been used continuously since that date in our business and to such an extent and in such manner that both the name and the mark long since came to have a "secondary significance and meaning"; that is, wherever the mark and name "BEECH-NUT" is seen and no matter with what product it is associated with, it has a "secondary significance" and means only the product and products of the Beech-Nut Packing Company.

You are woefully mistaken and entirely misinformed in your assumption and, indeed, your statement that the public is not deceived by your clients use of our trade mark and name "BEECH-NUT." We know as an absolute truth what is apparent on the face of the facts that the general purchasing public is deceived by your use of our "Beech-Nut" trade mark and trade name and, indeed, this could not well be otherwise, but we know further that your salesmen and agents deliberately push your goods and trade under this identity of use of their mark and name.

We beg to call your attention in this connection to our former communication to you in this matter and to again urgently request that you immediately stop the use in every way and manner of our trade name and mark "BEECH-NUT," in your business without further action upon our part.

Yours very truly,

BEECH-NUT PACKING Co.,
F. E. Barbour.

July 8, 1915.

BEECH-NUT PACKING COMPANY,
Canajoharie, New York.

(Attention F. E. Barbour, Esq.)

Gentlemen:

We have your letter of July 2nd, further with reference to our use of the name "Beech-Nut" on scrap tobacco, and informing us that you and your predecessors have used the name since and prior to the year 1891.

That the name "Beech-Nut" has acquired a secondary significance and meaning in the packing industry and is associated in the public mind with goods of your manufacture may be perfectly true, but this would not give you the right to the name for all purposes. The authorities are overwhelming on this subject. You seem to proceed upon the assumption that we have recently begun to use the name on the tobacco. This is not the case. This Company and its predecessor in ownership of this brand have used it continuously since prior to

the year 1898, as shown by records in my office. I have not made a search beyond that time, but I have no doubt that I can find that the brand is very much older.

We would not desire to have it thought that our "Beech-Nut" tobacco is made by your Company, and if you can give us the name of any salesman of ours who has made such a representation, we would be very glad to have it, and we can assure you that if he did make such a representation, his discharge will immediately follow. It could be of no conceivable advantage to us to have the public think that our tobacco product was manufactured by a packing establishment. Our concern has been in business for more than one hundred and fifty years, and in that length of time has built an enviable reputation for the excellence of its tobacco products.

Though you may turn out an excellent quality of bacon, it does not follow that you could turn out an excellent quality of tobacco, or steel rails, or pianos or aeroplanes. If your contention were true, we, who have a brand of tobacco called "Climax," could enjoin the use of the name on a well-known threshing-machine which is sold in the Western States, or we could enjoin the use of our name on the Lorillard Refrigerators. It has never occurred to us to attempt either.

If you will look at our package of Beech-Nut Tobacco, you will see that the name "Lorillard" is prominently displayed thereon. This was done with the desire that people should know the tobacco is coming from the Lorillard Company. It has been our belief that the fact that Lorillard made it would of itself be of value to the brand.

It is difficult to see how you can seriously claim that there is the slightest similarity in the marking of the package and the fac-simile of your mark as displayed on your letterhead.

If you desire me to point out to you authorities which I consider completely sustain my view as expressed herein, I will take pleasure in doing so.

Yours very truly,

TSF/L

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

7/26/15.

P. LORILLARD Co.,
119 West 40th St.,
New York.

Thomas S. Fuller.

Dear Sirs:

Please pardon the delay in acknowledging receipt of your favor of July 8th.

We will greatly appreciate it if you will send us samples of your product showing the manner of use of the word "BEECH-NUT" since the year 1898, copies of advertisements or of letter-heads showing your use of this name. We trust you will consider this a fair request as we would like to reach a prompt and friendly termination of the correspondence on this subject.

We also desire to take advantage of the offer contained in the last paragraph of your letter to point out to us the authorities which sustain your views.

Thanking you in advance for the information requested herein, we remain,

Yours very truly,

BEECH-NUT PACKING Co.,
F. E. Barbour.

BEECH-NUT PACKING COMPANY
Canajoharie, N. Y.

9/2/15.

MR. THOS. S. FULLER,
119 W. 40th St.,
New York.

Dear Sir:

Kindly refer to your favor of July 29th in which you advised that you would collect the information requested in our letter of July 26th after your return from a week's absence. Up to the present we do not seem to have heard from you and will greatly appreciate the information requested.

In this connection, we received to-day an inquiry from New River Gro. Co., Hinton, W. Va., asking the best jobbing price on Beech-Nut scrap tobacco, from which you will note that in the minds of some, at least, Beech-Nut scrap tobacco is credited to the Beech-Nut Packing Co.

Thanking you to favor us at your early convenience, we remain,

Yours very truly,

BEECH-NUT PACKING CO.,
F. E. Barbour.

September 15, 1915.

F. E. BARBOUR, Esq.,
BEECH-NUT PACKING COMPANY,
Canajoharie, N. Y.

Dear Sir:

I have been able to locate some old price lists which contain our Beech-Nut Scrap Tobacco, and enclose them herein. I am also sending you an old package showing the use of the name "Beech-Nut" and our present package.

Beech-Nut chewing and smoking tobacco (scrap) was made by Harry Weissinger Tobacco Company, of Louisville, Kentucky. This Company was bought out by The American Tobacco Company some time in 1903. Prior to the acquisition of the Weissinger Tobacco Company by the American Tobacco Company the Luhrman & Wilbern Tobacco Company of Middletown, Ohio, was acquired by the Continental Tobacco Company. In 1904 the American Tobacco Company and the Continental Tobacco Company were merged into a new company formed for that purpose and known as The American Tobacco Company.

Under a decree of the Circuit Court of the United States for the Southern District of New York, the so-called Tobacco Combination, which included The American Tobacco Company, was split up. In this disintegration proceeding the Luhrman & Wilbern Tobacco Company, which had always been maintained as a separate entity, was acquired by P. Lorillard Company. In the meantime some of the brands formerly manufactured by the Weissinger Tobacco Company had been taken over and manufactured in the Luhrman & Wilbern factory in Middletown, and after the acquisition by our Company

of the Luhrman & Wilbern business, including these brands, we continued to operate it as a separate Company until about two years ago, when we dissolved it, taking over all of the business and brands directly in our own name.

I give you this history so that you may understand the various price lists in the name of Luhrman & Wilbern Tobacco Company and the package in the name of Harry Weissinger Tobacco Company. I do not know the exact date of the old package, as the stamp is not legible, but it was prior to 1903.

The price lists that I send you are dated January 2, 1904; May 6, 1907, July 1, 1910, and November 3, 1910.

It is difficult for me to see how anyone can claim that there is any similarity in our products and yours, or in your label and ours, other than the name "Beech-Nut." Your claim that we would not have the right to use the name "Beech-Nut" on tobacco products must find its basis in the idea that you can appropriate the name "Beech-Nut" for all products of whatever character.

That the law does not permit of such a claim is elementary. If your claim were maintainable, then the Lion Brewery in New York could enjoin the manufacture of Lion brand collars, or vice versa. Suppose that the J. B. Williams Company should tomorrow put out a new brand of shaving soap, called "Beech-Nut." Do you argue that you could stop it because you have first used the name on hams and bacon? It seems to me that your argument must lead to this conclusion. The law of unfair competition, so far as it assumes to protect the public, assumes to protect the purchaser of average intelligence. It is difficult to believe that a person of average intelligence who enters a store for the purpose of buying "Beech-Nut" hams or bacon could be deceived into thinking he was getting either if he were handed a package of "Beech-Nut" chewing tobacco, or that the "Beech-Nut" chewing tobacco was manufactured by the

manufacturer of the hams and bacon. It is no more the custom in this country for a packer to manufacture chewing tobacco than it is for a manufacturer of beer to manufacture collars, and the purchaser of average intelligence perfectly well knows this.

We have tried to make it evident on our package that our "Beech-Nut" chewing tobacco is of our manufacture, by stamping across the top of the package, before the name "Beech-Nut," "Lorillard's." We have also on the other side of the package, plainly printed that it is manufactured at Middletown, Ohio. There is nothing in the get-up of the label, whether in design, color or wording, which could suggest to a person of average intelligence that it was of your manufacture, or in fact the manufacture of anyone except the Lorillard Company.

As I have written you before, we consider it of immense value to the brand itself that it is manufactured by the Lorillard Company, and we desire the consumers of tobacco to know this, because we believe that the Lorillard name carries with it a vast amount of good-will and a guarantee of excellence. We are justified in this belief by reason of the immense increase in the sales of "Beech-Nut" Scrap since we took the former manufacturer's name off and put "Lorillard's" thereon.

I think this covers the situation except with respect to any representations which you claim that some of our salesmen made, to the effect that our "Beech-Nut" Scrap was a product of your Company. I have written you before that if you will give me the name of any salesman who has made such representation, and that fact can be determined, his discharge will be immediately forthcoming, as he can be of no service to us. If you will point out to me anything in the conduct of our business which tends to create a belief in the trade that our "Beech-Nut" Scrap is made by you, we will thank you, so that we may rectify it. I assure you that we are just as anxious as you are, if not more so, to prevent any

impression that our tobacco is made by you. Will you let me have a copy of the letter you received from the merchant in West Virginia making inquiry of you for "Beech-Nut" tobacco?

On this general subject, if you have not already done so, you might consult Nims on Unfair Business Competition, pages 200 to 300; therein I think you will find a very complete and satisfactory discussion of the law governing this subject. I will quote you paragraph 117 on page 236:

"Property in a place name for all purposes cannot exist in one person, under ordinary circumstances. The defendant must be using it in the same or a similar business as the plaintiff. Large amounts of rubber as well as licorice might be found in Anatolia. If there were, the rights which the complainant has acquired in the use of the name in the licorice business, would not prevent another under certain conditions from acquiring a sole right to use the name in the rubber trade."

There is no distinction so far as the principle here laid down is concerned between a place name, a generic name, or a fanciful name. You might also consult the cases of Bordens Ice Cream Company against Bordens Condensed Milk Company, 201 Fed. 510 and Wells v. Ceylon Perfume Company, 105 Fed. 621.

I apologize for the length of this letter. I desire to give you the facts fully, together with our views, and I sincerely hope that this will satisfy you as to the law and our entire good faith. We are as proud of our goodwill and the excellence of our products in the tobacco business as you are of yours in the packing industry, and we believe with good reason.

Yours very truly,

(Sgd.) THOS. S. FULLER.

BEECH-NUT PACKING COMPANY
CANAJOHARIE, N. Y.

9/20/15.

MR. THOS. S. FULLER,
119 West 40th St.,
New York.

Dear Sir:

We have your very interesting letter of Sept. 15th together with the pricelists referred to and the package of tobacco.

Your letter is a very interesting one and before giving a definite reply to same, desire to review the matter as presented by you so that we can give you an intelligent reply.

At this time, however, we may express our agreement with you that the name Lorillard carries with it a vast amount of good will and unquestionably a guarantee of excellence. So does the name "Beech-Nut Packing Co." and we take the view that the increase in sales of Beech-Nut Scrap Tobacco is due to the exploitation of the name "Beech-Nut" with the oval label, and we cannot help but assume that the general impression is that these goods are manufactured by this Company rather than by Lorillard, at least to a considerable degree, for since writing you last we have another inquiry, and this time from Wm. Edwards Co. of Cleveland, O., asking us to ship them 5 cases of Beech-Nut scrap tobacco. The previous inquiry came from New River Gro. Co., Hinton, W. Va.

Yours very truly,

BEECH-NUT PACKING CO.
F. E. Barbour.

June 28, 1919.

BEECH-NUT PACKING COMPANY,
Canajoharie, New York.

Gentlemen:

Some four years ago, there occurred a correspondence between the two companies begun by your Mr. F. E. Barbour's letter of June 11th, 1915, complaining of our use of "BEECH-NUT" for tobacco products. Several letters having intervened, we wrote you on September 15th, 1915, setting forth at some length the title to and use of this trade-mark for tobacco products, asserting our ownership of it for tobacco products and denying that you had cause or right to call this ownership in question. Your response was an acknowledgment, dated September 20th, 1915, characterizing our letter as very interesting and stating that before giving definite reply you desired to review the matter presented by us so that you could give us an intelligent reply.

On your part, there the matter was dropped, you having made no further reply or objection. On our part, we have continued the manufacture and sale of tobacco products under the trade-mark "BEECH-NUT" until today it is one of the leading tobacco trade-marks of this country.

On or about the 17th of this month information came to us of small shipments to two jobbers in this locality of cigarettes bearing the trade-mark "Beech-Nut" and your name, but manufactured by The American Tobacco Company. Our counsel immediately by phone took the matter up with Mr. Junius Parker, counsel for the Tobacco Company and, on being told by Mr. Parker that

the Tobacco Company did not claim any title to the trade-mark, but was manufacturing cigarettes under it for your account, our counsel asserted our ownership of the trade-mark for tobacco products and demanded that the Tobacco Company cease making these cigarettes. We now have Mr. Parker's letter dated June 25th, 1919, stating that the Tobacco Company has "easily and definitely concluded" not to manufacture any tobacco products under the name "Beech-Nut". We do not enclose copy of this letter, as we take it for granted that the Tobacco Company has made you fully cognizant.

We very much hope that further consideration will bring you to a like conclusion, as we must and do insist that you respect our rights and cease using "Beech-Nut" as a trade-mark for cigarettes. You have never heretofore used this trade-mark for tobacco products. Indeed, you have never heretofore manufactured or sold any tobacco products, but always goods of an entirely different class. "BEECH-NUT" has been used by ourselves and our predecessors in title for many, many years as a trade-mark for tobacco products, and under numerous decisions this gives us ownership of the trade-mark "BEECH-NUT" for cigarettes.

We are mailing a duplicate original of this letter to your New York Office.

Very truly yours,

P. LORILLARD COMPANY,

President.

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

July 7, 1919.

P. LORILLARD COMPANY,
119 West 40th St.,
New York City.

Mr. Thomas J. Maloney.

Dear Sirs:

At the request of Mr. B. Arkell, you are advised in
Pittsburg, Pa., there is a firm trading under the name
of Beech-Nut Stogie Co. It is our understanding that
this firm markets Beech-Nut Big Havana Stogies.

On 5/25/18 our Pittsburg salesman sent us an order
for shipment of Beech-Nut Gum to H. Myers, 305 Wood
St., Pittsburg, Pa. This party re-ordered under the
name of Beech-Nut Stogie Co.

Yours very truly,

BEECH-NUT PACKING Co.
W. C. Arkell.

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

July 7, 1919.

P. LORILLARD COMPANY,
119 West 40th St.,
New York City.

Mr. Thomas J. Maloney.

Dear Sirs:

Wm. A. Stickney Cigar Co., 105 West 2nd South, Salt Lake City, Utah, has written us requesting us to make shipment to Fred Vogel, Ogden, Utah, of 5 gross Beech-Nut Scraps.

We are writing them that this product is made by your concern.

Yours very truly,

BEECH-NUT PACKING Co.
W. C. Arkell.

July 9, 1919.

"BEECH-NUT."

MR. W. C. ARKELL,
c/o BEECH-NUT PACKING COMPANY,
Canajoharie, N. Y.

Dear Sir:

I have your two letters of the 7th inst.—one calling to our attention the manufacture of "BEECH-NUT" Big Havana Stogies by the Beech-Nut Stogie Company of Pittsburg, Pa., and the other calling our attention to an order received by you from Wm. A. Stickney Cigar Co., for 5 gross of "BEECH-NUT" Scrap, and enclosing copy of your reply to the Cigar Company.

We thank you very much for this information and the same shall have our prompt attention.

Very truly yours,

P. LORILLARD COMPANY,

(Sgd.) THOS. J. MALONEY,
President.

TJM/ELM

July 15, 1919.

MR. BARTLETT ARKELL, President,
BEECH-NUT PACKING Co.,
New York City.

Dear Mr. Arkell:

Pursuant to our interview, I am sending you by registered mail, under separate cover, a sample of the old package for BEECH-NUT cigarettes, also one showing color scheme for the new package.

The new package will carry the same printing and gilt as the old package, except that the printing on the reverse side of the new package will be: "Cigarettes of this quality have never before been offered to the public. Guaranteed by P. Lorillard Company (Established 1760)." in lieu of that now appearing on the old package.

The color scheme we have adopted for the new package is not only strikingly different from the old package, but it is a distinctly new color, in so far as we know. Our lithographer tells us it is a recently "created" color.

In making this change we are destroying wrapping and advertising material that cost us \$10,231.36. I mention this, as I feel sure you will not permit us to suffer such a loss in accommodating ourselves to your wishes.

Yours very truly,

President.

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

Room 1818, 120 Broadway, New York City.

July 17, 1919.

Mr. THOMAS J. MALONEY, President,
P. LORILLARD COMPANY, .
119 West 40th Street,
New York City.

Dear Mr. Maloney:

I am in receipt of your courteous favor of the 15th inst. together with sample packages, which I will submit to my associates, and also to our counsel. As soon as I hear from them, I will take the matter up further with you.

I do not understand the last paragraph of your letter. Do you mean that we should pay for all, or part of, the loss which you suffer, or what? If so, such a request is not in accord with my recollection of our interview.

Yours sincerely,

BEECH-NUT PACKING Co.

BARTLETT ARKELL,
President.

LAW OFFICES OF OFFIELD & POOLE.

Attorneys and Counselors.
1225 Monadnock Building, Chicago.

JAMES R. OFFIELD.

CHARLES H. POOLE.

July 22nd, 1919.

Mr. W. C. ARKELL,
c/o BEECH-NUT PACKING COMPANY,
Canajoharie, New York.

In Re Beech-Nut Stogie Company.

Dear Sir:

In reply to your letter of June 10th, the fact that you were aware of the existence of the Beech-Nut Stogie Company and have actually filled their orders with your goods without making any complaint will, of course, have a bearing upon the question of damages in the event you sued them, but I doubt if it would have any bearing upon your right to stop the use by them of your mark. Of course, the time to have taken the matter up was upon the first shipment but that is now past and I think it would be a good idea to call this matter to the attention of the Lorillard Company and let them take steps against the Beech-Nut Stogie Company as they are in a much better position to do so than the Beech-Nut Packing Company.

Very truly yours,

(Sgd.) JAMES R. OFFIELD
for O. and P.

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

Room 1818, 120 Broadway, New York City.

July 25th, 1919.

Mr. THOMAS J. MALONEY, President,
P. LORILLARD COMPANY,
119 West 40th Street,
New York City.

Dear Mr. Maloney:

I am enclosing letter addressed by our counsel, Mr. Offield, to my son, William Clark Arkell, in reference to the Beech-Nut Stogie Company, thinking that you would be interested in same.

Yours sincerely,

B. ARKELL.

Enclosure
Cy/Canajoharie.

July 28, 1919.

Mr. BARTLETT ARKELL, President,
BEECH-NUT PACKING COMPANY,
Room 1818, 120 Broadway,
New York City, New York.

Dear Mr. Arkell:

I have your letter of the 25th, enclosing letter from your counsel, Mr. Offield, to your son, Mr. William Clark Arkell, in reference to the Beech-Nut Stogie Company.

We are now opposing in Washington an attempted registration by this concern of the name "Beech-Nut" for some tobacco products. This is the beginning of measures which we hope will result in stopping the use of the name by this concern for tobacco products.

I also received your letter of the 17th, with respect to the sample package sent you, and as to which I hope you will find yourself in position to reply at an early date.

You state you do not understand the last paragraph of my letter of the 15th. Should we change from the label we had adopted for "BEECH-NUT" cigarettes, it will result in our being unable to use the labels and advertising and wrapping material which we had procured for this brand of cigarettes, and which cost us the figures stated in my letter. Mr. Perkins mentioned this to you—though not the figures—in our interview when you were here. There was no discussion of the point. It seems to me that we should not stand this loss and that you would not wish us to stand the loss, inasmuch as any change that we might make would be simply to accommodate ourselves to your wishes.

Yours very truly,

President.

BEECH-NUT PACKING COMPANY
Canajoharie, N. Y.

August 7, 1919.

P. LORILLARD COMPANY,
119 West 40th St.,
New York.

Mr. Thomas J. Maloney.

Dear Sirs:

Our President, Mr. Arkell, was here yesterday and your letter of July 28th was presented at a meeting of our Executive Committee.

In discussing the situation, a suggestion was made which possibly has not occurred to you, and therefore we are submitting it to you for your consideration. In view of the splendid success of your Beech-Nut Scrap Tobacco, would it not be worth while to simulate your Beech-Nut scrap tobacco package in a wrapping for your cigarettes: in other words, use for your cigarettes a form of label which will immediately apprise the prospective purchaser that the cigarettes are made by the same company making the popular Beech-Nut tobacco, and tie up the advantage and publicity you have already gained through the merchandising of that product. Our thought in regard to the above is prompted by the procedure of the Patterson Co. in connection with their Lucky Strike Smoking Tobacco and Lucky Strike Cigarettes.

Should you not care to follow the suggestion offered above, we hope you will abandon the red background and change the same to blue or some other color, and we would like to see the words "Beech-Nut Brand" a straight line instead of a curve, provided you could work out this idea to your satisfaction.

Mr. Arkell has no recollection of hearing mentioned the advertising matter or wrappings you have provided for your Beech-Nut cigarettes, and while Mr. Lipe recollects some mention made of it, no reference, as far as he can recall, was made in regard to the quantity and neither of these gentlemen gained the inference that you would expect the Beech-Nut Packing Co. to absorb the cost of these supplies.

Yours very truly,

BEECH-NUT PACKING CO.

F. E. BARBOUR.

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

Room 1818, 120 Broadway, New York City.

August 9, 1919.

Mr. THOMAS J. MALONEY, Pres.

P. LORILLARD Co.,

119 West 40th Street,

New York City.

My dear Mr. Maloney:

I am enclosing copy of letter written by my son relative to the Beech-Nut Stogie Company, at Pittsburgh.

Yours sincerely,

B. ARKELL.

Enclosure.

August 8, 1919.

MR. JAMES R. OFFIELD,
1225 Monadnock Building,
Chicago, Ill.

Dear Sir:

We are in receipt of a communication from Mr. V. P. Burby our Pittsburgh representative under date of August 5 as follows:

"The Beech-Nut Stogie Co. is not incorporated. Mr. H. Meyers trades under the name. Mr. Meyers mentioned the other day that A. Schulte, who operate a string of Cigar Stores in New York, recently offered \$5000.00 per year for the use of the name. This may be bunk but I thought it might be of interest."

Mr. Meyers claims he has secured a copyright on the word Beech-Nut for stogies."

We have answer as per attached copy. We are also sending copy of this letter to Mr. B. Arkell with the thought that he will call it to the attention of the Lorillard people.

Yours very truly,

BEECH-NUT PACKING COMPANY.

August 27, 1919.

MR. F. E. BARBOUR, Secretary,
Beech-Nut Packing Company,
Canajoharie, New York.

Dear Sir:

Your letter of the 7th has been received and its contents noted, and we appreciate very much your suggestion of our use for the cigarette package of the design now upon our scrap package. This thought occurred to us when we were originating the package for the cigarette and was tried out, with the result that in our opinion the design was not adaptable to a package the size of a cigarette package.

The matter of the oval upon the package was mentioned by Mr. Arkell, but he did not press the point against our objection, the only things remaining for discussion between us being the color of the background of the package and the wording as respects "BEECH-NUT" quality. In the light of this interview the sample which we sent you made changes in both these respects, and we still very much hope that it will prove acceptable.

Indeed, your averseness to assuming the loss which a change in wrapping material would occasion us indicates that the matter is of such small importance to you as not to justify further consideration, for you could not expect us to bear the loss of changes made just to accommodate ourselves to your wishes.

As we are anxious to get along with this matter, will you not let us have your prompt and full answer.

Very truly yours,

President.

BEECH-NUT PACKING COMPANY

Canajoharie, N. Y.

8/28/19.

P. LORILLARD Co.,
119 West 40th St.,
New York City.

Mr. Thomas J. Maloney.

Gentlemen:

Your letter of the 27th is received and the same will
have prompt consideration.

Yours very truly,

BEECH-NUT PACKING Co.,

F. E. Barbour.

September 17, 1919.

MR. BARTLETT ARKELL, President.
Beech-Nut Packing Company,
Room 1818, 120 Broadway,
New York City, New York.

Dear Mr. Arkell:

Although from my interview and correspondence which ante-dated your application for the registration of "BEECH NUT" for cigarettes, makes me feel sure that you did not intend to press this application, the appearance of a notice of it in the "Official Gazette" of September 9th compels us to file a formal opposition in order that the registration may not become complete through our default.

I am writing you in advance of the filing of this opposition, so that you will understand the circumstances.

I hope that you may be able to let me hear at an early date something further as to the proposed package for "BEECH NUT" Cigarettes.

Very truly yours,

(Sgd.) T. J. MALONEY,

President.

BEECH-NUT PACKING COMPANY
Canajoharie, N. Y.

Room 1818 120 Broadway, New York City.

September 19th, 1919.

MR. THOMAS J. MALONEY, President,
P. Lorillard Company,
119 West 40th Street,
New York City.

Dear Sir:—

I take the liberty of acknowledging receipt of your courteous favor of the 17th inst. which has arrived during Mr. Arkell's absence from the city.

It is expected that Mr. Arkell will return to the city the forepart of the coming week, at which time your letter will be placed before him for his attention.

Yours very truly,

M. E. CARROLL,
Secretary to Mr. Arkell.

BEECH-NUT PACKING COMPANY
Canajoharie, N. Y.

Room 1818 120 Broadway, New York City.

September Twenty-second, 1919.

MR. THOMAS J. MALONEY, President,
P. Lorillard Company,
119 West 40th Street,
New York City.

My dear Mr. Maloney:

I appreciate, and understand thoroughly, your courteous favor of the 17th inst.

I take it for granted that the application for registration of Beech-Nut Cigarettes was a procedure advised by our Legal Department. I understand that Mr. Offield, who has offices in Chicago, and who has these matters in charge, has been in California and for that reason there has been this unusual delay. Or it may be that we felt that our suggestions as to your package should have been regarded in a more favorable light by you.

Yours sincerely,

BARTLETT ARKELL.

BEECH-NUT PACKING COMPANY

Oct. 8, 1919.

Mr. THOMAS J. MALONEY,
Pres. P. Lorillard Co.,
119 West 40th St.,
New York City, N. Y.

Dear Mr. Maloney:

We have just had a communication from our attorney regarding our application for the registration of our trade-mark "Beech-Nut" for cigarettes. It is his opinion that this application should stand in the Patent Office in order to preserve the rights of the Beech-Nut Packing Company and that no doubt your attorneys will advise the filing of a formal opposition against this registration to preserve any rights that you may have, and that it would be unwise for us to abandon this application for registration without contest unless we reach some definite agreement.

Up to the present time we have come to no final understanding and as the matter stands to date you have agreed to make certain changes in your label and submit your proposed changes to us, but have asked us to assume the loss which your company will incur by reason of making such change.

We do not feel disposed to reimburse your company for losses sustained by reason of adopting trade-mark and common law property which rightfully belongs to this company although such adoption may have been a mistake on the part of those in your employ who prepare such illustrative matter.

Briefly stated, our position is this—That regardless of the trade-name or mark "Beech-Nut" your company

adopted our oval trade-mark and our general color scheme and other embellishments for your cigarette package, and this your company had no right to do regardless of any rights that you may have had in so far as the name "Beech-Nut" is concerned.

From a pure equitable standpoint we therefore believe that you should make the necessary changes so that there will be no similarity as to designs or marking upon the package other than the name "Beech-Nut."

The mistake, we believe, is due entirely to your organization and therefore this company should in no wise contribute to its correction. On the other hand, we are advised that for a sum less than the amount which you have suggested we contribute to reimburse you for the necessary changes, our legal rights could be determined and regardless of what the court might hold as to our respective rights in the trade-name "Beech-Nut" we are assured that a court would sustain our contentions as to the subject-matter which we now ask you to abandon.

Of course we know that lawyers cannot always foretell the outcome of any litigation on any given set of facts, and contests of this kind are undesirable to both parties.

The matter has been given very thorough consideration by us and we feel that your package should be changed and that such changes should be made at your expense. Our other differences, such as the opposition proceeding, can be very readily adjusted after we have definitely agreed upon the main issue, and we should be pleased to hear from ^{you}~~our~~ further.

Very truly yours,

BEECH-NUT PACKING Co.,

F. E. Barbour.

October 15, 1919.

Mr. F. E. BARBOUR, Secretary,
Beech-Nut Packing Company,
Canajoharie, New York.

Dear Sir:

Replying to your letter of the 8th inst., this Company has not adopted any trade-mark or common-law property or design or color scheme or other embellishments belonging to your Company, nor have we agreed to make changes in our labels.

" When knowledge of your attempted marketing of a "BEECH NUT" Cigarette reached us, we at once wrote asserting our ownership of the trade-mark "BEECH-NUT" for all tobacco products and asked your Company to respect this ownership. There followed an interview with Mr. Arkell and Mr. Lipe. In this interview it developed that the only real matters in difference as respects our use of the trade-mark "BEECH NUT" for cigarettes were the color of the background and the wording of the catch-phrase on our proposed package of "BEECH NUT" cigarettes, and we promised to submit a sample package with a different background and a different catch-phrase, in an endeavor to see if these differences could not be amicably adjusted, stating to you at the time, however, that if we did come to an agreement in this respect it would involve the loss of material we had already bought and that this loss should be borne by your Company. We subsequently submitted the sample as promised.

What we did and said in this connection was without any waiver of our rights and without recognition of any

right in your Company to require any such change; but solely as explained in the interview and as we have tried to make plain in our correspondence, in a friendly endeavor to get together in this matter. Our ownership of the brand "BEECH NUT" for all tobacco products is clear and we are exercising our ownership of this brand, including the proposed package for "BEECH NUT" Cigarettes, in an entirely legal manner.

If we have failed in this endeavor, as your letter seems to indicate and which we sincerely regret, will you kindly return the sample package which we sent you.

Very truly yours,

President.

DEFENDANT'S EXHIBIT NO. 30—NEWTON'S LIST OF TRADE-MARK REGISTRATIONS.

THE FOLLOWING REGISTRATIONS APPEAR IN
VOLUME I.
(in the order listed)

CLIMAX

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Lorillard Co.	Oct. 22, 1907	1873	65,759	Chewing & Smoking tobacco	17
max Coffee & Baking Powder Co.	Feb. 11, 1908	1884	67,563	Coffee	46
North Alaska Salmon Co.	July 14, 1908	1900	69,849	Canned Salmon	46
max Aramie Co.	July 21, 1908	1907	70,007	Gold paint	16
ador Levin	Sep. 22, 1908	1883	70,692	Canned fruits & Veg.	46
sign-Bickford Co.	July 6, 1909	1889	74,342	Gun-powder	9
C. Blair Co.	July 27, 1909	1878	74,625	Paper Envelopes, etc.	37
nders, Frary & Clark	Sep. 30, 1902	1902	38,971	Food choppers	—
mford Mfg. Co.	June 23, 1903	1902	40,641	Flavoring Extract	Drugs & Chem.
itney & Co.	July 12, 1904	1890	43,004	Folding paper Boxes	Paper Mfgs.
ott & Woodrow	Sep. 13, 1904	1897	43,364	Baled hay	Feed
ila. Watch Case Co.	Feb. 7, 1905	1904	44,150	Watches	Time-keeping instruments
ational Tag Co.	July 4, 1905	1893	44,454	Tags and Labels	Marking Devices
land Welding Compound Co.	Aug. 22, 1905	1891	45,443	Welding Compounds	Chemicals
natock Mfg. Co.	Sep. 5, 1905	1895	46,019	Steam Engines	Machines
W. Conklin Son	Sep. 5, 1905	1899	46,093	Grass seed	Seeds
bert & Bennett Mfg. Co.	Sep. 26, 1905	1894	46,529	Wire netting	Woven Wire Goods
w Eng. Conf. Co.	Oct. 3, 1905	1886	46,683	Chocolate drops	Confectionery
y State Forge	Oct. 17, 1905	1898	46,971	Toe Calks for horse-shoes	Metals
ade & Dangh Paper Co.	Dec. 26, 1905	1896	48,402	Cartons	Wrappers
olin, Rice Clerkin Co.	Dec. 7, 1909	1866	76,048	Heating App.	34
ver-Harris Wire Co.	Mar. 8, 1910	1899	77,050	Metallic wire	14
ae W. Jones Brewing Co.	May 10, 1910	1905	77,851	Ale	48
urke-Fuller Co.	June 7, 1910	1898	78,306	Rivets	13
ashington Standard Slate Co.	Feb. 21, 1911	1910	81,042	Roofing slate	12
dwain Refrigerator Co.	Apr. 25, 1911	1896	81,574	Refrigerators	31
n Products Refining Co.	Apr. 25, 1911	1903	81,593	Corn syrup	46
erican Mfg. Co.	July 25, 1911	1904	82,745	Jute Bagging	42
S. Cartridge Co.	Sep. 12, 1911	1911	83,450	Cartridges	9
& A. Wise	Sep. 12, 1911	1909	83,461	Hosiery	39
e Water Oil Co.	Oct. 10, 1911	1889	83,791	Lubricating Oils	15
ville Co.	Feb. 6, 1912	1894	85,280	Safety pins	40
rsaw-Wilkinson Co.	Oct. 8, 1912	1902	88,649	Ensilage-cutters	23
egren & Co.	May 6, 1913	1911	91,446	Cottonseed oil	46
st Salve Co.	Oct. 7, 1913	1912	93,632	Salves	6
ndard Paper Mfg. Co.	Dec. 23, 1913	1887	94,685	Blotting Paper	37
as. A. Mezger	July 7, 1914	1912	98,174	Spark-plugs	21
a. Peterman, Inc.	July 7, 1914	1914	98,316	Insecticides	6
nes Thompson & Co.	July 14, 1914	1900	98,439	Canopies for beds	32
ldes & Co.	Dec. 29, 1914	1904	101,604	Snap-Buttons	40
bbard Fertilizer Co.	Feb. 16, 1915	1886	102,606	Fertilizer	16
yers & Scheiner	Apr. 13, 1915	1908	103,788	Hair-tonic	6
Kohnstamm & Co.	Apr. 13, 1915	1914	103,818	Flavoring extracts	46
il Billups	Apr. 13, 1915	1873	103,840	Plows	23

DEFENDANT'S EXHIBITS.

Registrant	Date of Registration	Date of Adaption	No.	Subject	Patent Office Class
Wm. Focke's Sons	Apr. 27, 1915	1910	104,052	Ham and Bacon	46
Albany Perforated Wrapping Paper Co.	Dec. 28, 1915	1893	107,729	Toilet paper	37
Wadhams Oil Co.	June 6, 1916	1894	110,707	Gasoline	15
Fisher Bruce Co.	Aug. 1, 1916	1916	111,721	Fruit jars	33
Climax Underwear Co.	Aug. 8, 1916	1910	111,792	Union suits	39
Higrade Belting & Weaving Co.	Aug. 7, 1917	1917	117,863	Rubber belting	35
Elijah & Ballard	Sep. 25, 1917	1916	118,618	Furniture polish	16
Lantz Bros. Co.	Apr. 30, 1918	1874	121,458	Soap	4
American Mfg. Co.	Mar. 18, 1919	1917	124,811	Rope	7
Maudie Sinclair George	July 13, 1920	1912	133,131	Sanitary Hospital Goods	44
Manufacturers Belt Hook Co.	Oct. 26, 1920	1914	136,088	Belt Fasteners	13
Giles T. Young	Oct. 26, 1920	1908	136,279	Hair Straightener paste	6
Climax Lumber Co., Ltd.	Nov. 9, 1920	1919	136,779	Rough Lumber	12
Climax Rubber Co.	July 11, 1922	1917	156,647	Automobile tires	35
International Sugar Feed Co.	Mar. 8, 1921	1913	140,150	Poultry feed	46
Samuel Williamson	Aug. 16, 1921	1920	145,871	Phonographs	36
Jewett Mfg. Corp.	Oct. 10, 1922	1921	159,916	Radio Receivers	21
Marshall Field Co.	Jan. 2, 1923	1917	163,123	Cotton batting	1
Climax Engineering Co.	Feb. 6, 1923	1917	163,912	Internal Combustion Engines	23
Miller Lock Co.	Sep. 18, 1906	1900	56,373	Locks & Keys	25
Climax Road Machine Co.	Oct. 30, 1906	1888	56,955	Road Grading Machinery	26
Sibley & Pitman	Oct. 30, 1906	—	57,068	Dry Batteries	—
National Malleable Castings Co.	Nov. 27, 1906	1904	57,754	Journal Boxes for Railway cars	27
Missouri Valley Milling Co.	Dec. 4, 1906	1906	58,151	Wheat Flour	44
H. Kohnstamm & Co.	Dec. 11, 1906	1896	58,406	Laundry starch	6
Sibley & Pitman	Dec. 18, 1906	1905	58,453	Oil Lamps	34
New Home Sewing Machine Co.	Jan. 22, 1907	1893	59,942	Sewing machines	28
Climax Coffee & Baking Powder Co.	Aug. 13, 1907	1872	64,628	Baking powder	6
American Wringer Co.	Nov. 12, 1907	1875	66,124	Clothes wringers	24
Frank O. Mattag	May 29, 1906	1890	53,254	Typewriter ribbons	Typewriter supplies
Anderson Computing Scale Co.	June 5, 1906	1904	53,536	Counter Scales	Measuring instrument
do	June 5, 1906	1906	53,537	Computing Cheese cutter	do
Acme Cement Plaster Co.	June 12, 1906	1889	53,675	Wall plaster	Plaster
Climax Road Machine Co.	June 19, 1906	1889	53,973	Rock crushers	Machinery
Climax Boiler Compound Co.	Mar. 5, 1901	1900	36,012	Boiler Scale preventive	Protective Compound
Atlantic Match Co.	Aug. 20, 1901	1901	36,947	Matches	Matches
Climax Cleaner Mfg. Co.	Mar. 6, 1906	1895	50,092	Wall Paper Cleaner	Cleaning App.
National Malleable Co.	Apr. 3, 1906	1903	50,952	Car-couplings	Car-couplers
Wolff Process Leather Co.	Apr. 17, 1906	1905	51,489	Enameled leather	Leather

BETWEEN THE ACTS.

P. Lorillard Co.	July 27, 1920	1877	133,489	Cigars, little Cigars and Cigarettes	17
Morris V. Dunn	Feb. 24, 1920	1919	129,450	Cosmetics	6

RED CROSS.

Justin, Seubert, Inc.	Jan. 4, 1910	1874	76,340	Cigars	17
J. & J. W. Elsworth Co.	Sep. 22, 1908	1865	70,691	Oysters	46
Mohawk Condensed Milk Co.	Nov. 24, 1908	1892	71,394	Condensed Milk	46
Cuddy Cheese Co.	June 22, 1909	1896	74,124	Cream cheese	46
Rouse, Hempstone Co.	Aug. 23, 1910	1903	79,302	Certain named clothing	39
Albany Perforated Wrapping Paper Co.	June 13, 1911	1897	82,193	Toilet Paper	37
Co-operative Drug Mfg. Co.	Sep. 15, 1914	1901	99,701	Furniture polish	16

DEFENDANT'S EXHIBITS.

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Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Co-operative Drug Mfg. Co.	Sep. 15, 1914	1901	99,702	Machine oil	15
Albany Chemical Co.	Nov. 24, 1914	1888	101,258	Liniment	6
Krohn-Fechheimer Co.	Feb. 25, 1919	1898	124,550	Ladies' shoes	39
Roundy Peckham & Dexter Co.	Sep. 20, 1921	1884	146,855	Tea and Coffee	46
St. Paul Roller Mill Co.	Jan. 27, 1885	1880	11,889	Flour	Flour
F. Korbel & Bros.	Aug. 8, 1899	1898	33,324	Wines	Wines & Liquors
M. Michaelis & Son	Feb. 8, 1887	1886	14,068	Flavoring Extracts	Flavoring Ext.
Ricker, Crombie & McLeran	June 2, 1885	1884	12,294	Baking powder	Groceries
Va. Carolina Chem. Co.	Aug. 28, 1906	1898	56,198	Fertilizers	10
John E. Ahrens	June 10, 1902	1892	38,426	Whiskey	Distilled Liquors
Nebraska Mercantile Co.	Feb. 4, 1908	1895	67,532	Cereal foods	44
William D. Rea	Oct. 1, 1901	1890	37,139	Pile cure	Medical Preparations
Arlington M. Betts	Mar. 21, 1893	1892	22,674	Rubber goods	Rubber goods
Nitedals Taendstik-fabrik	Dec. 1, 1908	1883	71,600	Safety Matches	9
Schoen & Sommer	Apr. 9, 1895	1895	26,372	Salt	Salt
Co-operative Foundry Co.	May 21, 1907	1882	67,721	Stoves	21
Ricker, Crombie & McLeran	Mar. 31, 1885	1884	12,070	Spices	Groceries
Sommer, Richardson Co.	July 20, 1886	1886	13,511	Crackers	Crackers
L. M. Sinclair Co.	Nov. 19, 1889	1886	17,203	Cooked tripe and tongue	Pickled meats
Norwood Mfg. Co.	Mar. 25, 1890	1889	17,711	Bundles of kindling wood	Kindling wood
Krieg & Co.	June 16, 1891	1891	19,737	Button fasteners	Fastening device
H. N. Palmer	June 30, 1891	1889	19,798	Bath robes	Wearing apparel
American Biscuit & Mfg. Co.	Sep. 29, 1896	1886	28,922	Peanuts	Peanuts
Eureka Fire Hose Co.	Feb. 23, 1897	1875	29,579	Hydraulic hose	Hydraulic H.
Canepa Bros.	Aug. 1, 1899	1872	33,290	Macaroni	Food
Atlas Shear Co.	Mar. 19, 1901	1900	36,109	Shears and scissors	Cutlery
R. G. Marcy Mfg.	Feb. 11, 1902	1900	37,800	Windmills and pumps	Windmills and adjuncts
J. B. & S. M. Knowles Co.	Apr. 15, 1902	1901	38,096	Spoons	Silverware
Hamilton Disinfectant Chem. Works	Nov. 18, 1902	1880	39,325	Disinfecting powders	Disinfecting agents
Chas. E. Whitehurst	May 12, 1903	1903	40,305	Insect powders	Insecticides
Am. Net & Twine Company	June 30, 1903	1903	40,661	Fish Nettings	Rope, Cord-Twine
Andrea Agosto	Aug. 16, 1904	1904	43,163	Olive oil	Oils
Wm. T. Shute	Dec. 5, 1905	1885	48,080	Dried and Canned fish	Food products
The Russ Co.	Mar. 6, 1906	1893	50,103	Laundry bluing	Bluing
Stephen J. Seneca	Mar. 6, 1906	1876	50,291	Canned vegetables and fruits	Canned goods
Chas. Toonen	Mar. 20, 1906	1899	50,470	Tooth brushes	Brooms & Brushes
Southern Spring Bed Co.	June 5, 1906	1904	53,573	Mattresses	Furniture
Am. Washboard Co.	Nov. 13, 1906	1885	57,526	Washboards	24
Nat. Biscuit Co.	Mar. 26, 1907	1886	61,568	Candy	47
Home Hosiery Co.	Aug. 20, 1907	1903	64,787	Hosiery	41
Marion Flint Glass Bottle	Feb. 4, 1908	1894	67,500	Glass bottles	33

HONEST.

W. Duke Sons Co.	Oct. 30, 1888	1882	15,970	Smoking & Chewing tobacco	Tobacco
H. A. Tiedel Son	Dec. 13, 1921	1920	149,432	Graham & Whole Wheat flour, dairy, horse, hog, cattle and hen feeds	No. 46, foods and ingredients of foods
Am. Writing Paper Co.	Jan. 9, 1912	1891	84,803	Writing paper	37
F. L. Falck & Co.	Aug. 18, 1914	1897	99,090	Laundry, Toilet & shaving soap	4
New Jersey Enamel Paint Co.	June 27, 1899	1898	33,162	Paints	Paints
J. E. Lentz	July 30, 1889	1889	16,885	Shoes and boots	Leather articles

EUREKA.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Claim
S. Alvarez & Co.	May 26, 1891	1885	19,591	Cigars	Manufactured tobacco
Albert Landreth Co.	Nov. 1, 1898	1895	32,106	Canned peas	Canned goods
Eureka Elect. Co.	Mar. 12, 1901	1898	38,074	Telephone App.	Telephone App.
Eureka Mfg. Co.	May 7, 1901	1901	36,388	Stove polish	Cleaning app.
Elias Bros. & Co.	Dec. 10, 1901	1875	37,434	Shirts	Wearing apparel
Eureka Blotter Bath Co.	June 3, 1902	1896	38,401	Copying Baths	Copying App.
Otto Wilcke	Nov. 11, 1902	1901	39,242	Metallic Brazing compound	Steel Mfg.
Zebulon Lincoln Chadbourne	June 16, 1903	1903	49,578	Hammocks	Hammocks
DeRoubaix Dedenkoven & Co.	Sep. 15, 1903	1894	41,113	Candles	Lamps, etc.
Levering Coffee Co.	Dec. 29, 1903	1902	41,767	Coffee	Coffee
E. Clinton & Co.	Sep. 27, 1904	1871	43,426	Sweeping brushes	Brooms, etc.
Whitney Eckstein Seed Co.	Dec. 20, 1904	1901	43,856	Clover seed	Seeds
Jones Improved Loose-leaf Specialty Co.	Dec. 27, 1904	1903	43,937	Book leaves	Book leaves
Besser Mfg. Co.	Sep. 5, 1905	1905	46,060	Tile molding machines	Machinery
Eureka Fire Hose Co.	Oct. 3, 1905	1875	46,677	Hydraulic hose	Hose
John Rutger Planten	Oct. 24, 1905	1878	47,051	Gelatin capsules	Capsules
Park Steel Co.	Nov. 14, 1905	1900	47,636	Steel	Metals
E. Clinton & Co.	Dec. 12, 1905	1871	48,120	Varnish & paint brushes	Brushes
Phila. Rubber Works	Feb. 6, 1906	1890	48,481	Devulcanized rubber	India rubber
Amer. Hard Rubber Co.	Apr. 24, 1906	1895	51,860	Syringes	Rubber goods
James E. Reynolds	May 8, 1906	1878	52,373	Carpet warps	Carpets, etc.
J. G. Brill Co.	Aug. 14, 1906	1891	55,566	Motor trucks	27
Elmer E. Jennison	Aug. 21, 1906	1894	55,756	Non-explosive lamp powder	6
Harry H. Charles	Aug. 21, 1906	1893	55,971	Portable tanks	26
Va. Carolina Chemical Co.	Oct. 30, 1906	1865	57,083	Fertilizers	16
W. J. Barr Mfg. Co.	Nov. 6, 1906	1905	57,156	Electric heaters	21
Auto Equipment Co.	Nov. 13, 1906	1905	57,556	Valve grinding compounds	4
Albert Van Praag	Dec. 11, 1906	1898	58,208	Peanut butter	50
Woolner & Co.	Dec. 18, 1906	1903	58,511	Gin	49
James E. Reynolds	Dec. 18, 1906	1901	58,598	Sheetings	42
Wm. M. Shoemaker	Dec. 25, 1906	1906	58,714	Gape cure for fowls	67
Eureka Packing Co.	Dec. 26, 1906	1888	58,947	Packing for steam engines	35
VanWeet Mansfield Drug Co.	Mar. 5, 1907	1860	61,207	Itch ointment	67
James E. Reynolds	Apr. 9, 1907	1885	61,848	Cotton twine	7
Freidberg & Workmin	June 4, 1907	1870	63,032	Whiskey	49
Manhattan Brass Co.	June 25, 1907	1881	63,532	Oil lamp burners	34
Chas. H. Besly	July 30, 1907	1897	64,301	Letter files	70
Columbia Rope Co.	Sep. 10, 1907	1895	65,092	Certain cordage	7
Geo. E. Whittaker	Nov. 5, 1907	1898	65,968	Cough medicine	67
Eureka Machine Co.	Nov. 19, 1907	1906	66,326	Concrete Mixing machine	26
S. W. Miller Piano Co.	Dec. 17, 1907	1907	66,673	Pianos	65
Pacific Coast Rubber Co.	Dec. 31, 1907	1905	66,866	Certain Rubber goods	38
Dreyfus Bros.	Jan. 7, 1908	1903	66,920	Peanut candy	47
General Phonograph Supply Co.	Mar. 3, 1908	1907	68,047	Talking machines	65
John A. Throckmorton	Mar. 10, 1908	1907	68,177	Seat pads	39
M. D. Wells Co.	Apr. 21, 1908	1890	68,691	Shoes	39
E. W. Murphey & Co.	June 23, 1908	1902	69,634	Press Board	37
New England Confectionery Co.	Aug. 18, 1908	1894	70,262	Chocolate candies	46
Salt Union, Ltd.	Dec. 8, 1908	1877	71,614	Salt	6
Kutnow Bros.	Feb. 9, 1909	1908	72,687	Electric Clocks	27
Hendricks Novelty Co.	May 4, 1909	1908	73,641	Dynamos & Magnetos	21
Dodge Mfg. Co.	June 1, 1909	1904	73,936	Machine to purify water	23
John Morrel & Co., Ltd.	June 8, 1909	1899	73,996	Hams and Bacon	46
Edinger & Co., Ltd.	Aug. 3, 1909	1884	74,723	Wheat flour	46
Julius Schmidt	Aug. 24, 1909	1908	74,974	Gut Strings	36
America Pin Co.	Jan. 25, 1910	1895	76,500	Hooks & Eyes	40

DEFENDANT'S EXHIBITS.

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Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Robinson Bros.	Feb. 15, 1910	1895	76,746	Adhesive cement	5
Hingston & Breadlinger	Feb. 15, 1910	1909	76,812	Fly-paper	6
Eureka Suction Co.	Feb. 22, 1910	1905	76,909	Dental Suction Cups	44
Amer. Pin Co.	Aug. 16, 1910	1910	79,179	Safety pins	40
Fred. Wardell	Oct. 18, 1910	1910	79,946	Vacuum cleaner	23
John G. Higgins	Feb. 21, 1911	1906	81,003	Toilet combs	40
John F. Zelke	Mar. 7, 1911	1890	81,152	Oleomargarin	46
Variable Power Gas Engine Co.	Apr. 18, 1911	1910	81,561	Carburetors	23
Eureka Vibrator Co.	May 30, 1911	1906	82,063	Vibratory Apparatus	44
Pittsburg Meter Co.	Oct. 10, 1911	1906	83,768	Fluid meter	26
Eureka Water Heater Co.	Nov. 21, 1911	1908	84,222	Gas-valves	13
Seacoast Canning Co.	Sep. 24, 1912	1899	88,523	Sardines	46
McWhiter Chemical Co.	Sep. 24, 1912	1912	88,542	Bleaching powder	6
John Z. Jones	Dec. 31, 1912	1909	89,666	Anticorrosive paint	16
Eureka Safety Razor Co.	Feb. 4, 1913	1912	90,105	Razor Blades	23
Salt Lick Lumber Co.	Apr. 8, 1913	1909	91,036	Wood flooring	12
Ashland Mfg. Co.	June 3, 1913	1911	91,835	Automobile Jacks	23
Willis Bros.	July 22, 1913	1912	92,753	Hog-cholera cure	6
Wm. D. Foss	Oct. 14, 1913	1913	93,709	Chemical wood-preserver	6
E. Nuhauser	Aug. 30, 1881	1881	8,614	Watchman's time detector	Timekeepers
Howes, Babcock & Ewell	Oct. 18, 1881	1866	8,731	Grain separator	Grain cleaning machine
Woelfel & Linke	Jan. 2, 1883	1883	9,927	Harness leather	Leather
G. A. Jones	July 7, 1885	1868	12,384	Coffee pots	Kitchen articles
N. J. Bushby	Oct. 19, 1886	1886	13,733	Call bells	Call bells
W. E. Smith	Feb. 4, 1890	1886	17,499	Cheese	Dairy products
W. H. Rhodes	July 8, 1890	1876	18,136	Post hole diggers	Tools
John R. Planten	Nov. 22, 1892	1878	22,046	Capsules	Capsules
Samuel Pierce	Jan. 3, 1893	1892	22,281	Vegetable compounds	Preserving Compounds
Volk & Volk	Jan. 3, 1892	1890	22,291	Remedy for Catarrh	Medicines
American Wringer Co.	Apr. 6, 1897	1863	29,805	Clothes wringers	Laundry articles
Lofaro & Rossi	Apr. 21, 1914	1912	96,434	Olive Oil	46
Am. Chain Co.	June 16, 1914	1894	97,746	Chains	13
Kincaid Bros.	June 30, 1914	1899	98,060	Siphons	23
Herrmann, Aukam & Co.	Sept. 8, 1914	1913	99,583	Handkerchiefs	42
Hockensmith Wheel & Mine Car Co.	Oct. 20, 1914	1901	100,332	Carwheels	19
Northwestern Expanded Metal Co.	June 8, 1915	1913	104,642	Expanded metal lathing	12
Mishawaka Woolen Mfg. Co.	June 13, 1916	1890	110,864	Hosiery	39
Theo. J. Snyder	Feb. 20, 1917	1916	115,545	Bottle stoppers	50
Ely & Walker Dry Goods Co.	Aug. 3, 1920	1908	133,642	Oil cloth	20
Eureka Products	Sep. 28, 1920	1918	135,236	Soft drinks	45
Massasoit Mfg. Co.	Nov. 30, 1920	1909	137,652	Mops	29
Florasynth Laboratories	May 31, 1921	1917	143,336	Printing cup	11
S. V. Feiser & Co.	June 7, 1921	1920	143,710	Grape Syrup	46
Clifton Mfg. Co.	Jan. 3, 1922	1910	150,296	Tents	50
Wilkes & Seaman Co.	Feb. 7, 1922	1921	151,642	Baking powder	6
Chg. Eye Shield Co.	Mar. 7, 1922	1916	152,714	Eye shields	44
Josephine Hostitch	Nov. 7, 1922	1899	161,195	Skin lotion	6
Rufus W. Buser	Feb. 18, 1902	1899	37,804	Toys	Games
Abe Stiewel	Aug. 7, 1894	1880	25,111	Anthrax coal	Fuel
Lewis Mfg. Co.	May 1, 1888	1888	15,406	Boiler compound	Chemical Compound
William Houston Shockey	Jan. 31, 1893	1892	22,414	Coffins	Receptacles
Charles Dierke	Sep. 7, 1920	1915	134,493	Tooth brushes	29
C. M. Brown	Jan. 5, 1892	1890	20,546	Hair tonic	Toilet preparation
J. Bowers	Nov. 27, 1883	1881	10,744	Corsets	Corsets
J. L. Kreychie	Mar. 2, 1886	1885	13,070	Horse medicine	Medicines
P. Muller	Apr. 17, 1883	1883	10,199	Hop substitute	Compounds
Murphy & Mosier	Apr. 23, 1889	1887	16,521	Rubbing stones	Cleaning Preparation
Wadsworth, Howland & Co.	Oct. 20, 1896	1895	29,018	Shellac	Varnish
Meyer Bros. Drug Co.	Dec. 6, 1892	1892	22,126	Whiskey	Whiskey

THE FOLLOWING REGISTRATIONS APPEAR IN
VOLUME II
(in the order listed).

CAMEL.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
R. J. Reynolds Tobacco Co.	Sep. 30, 1919	1901	126,760	Smoking tobacco and cigarettes	17
Campbell Holton & Co.	Nov. 28, 1916	1907	114,087	Certain named foods including, among others, flavoring extracts for foods, canned clams, canned fruits, canned vegetables (string beans, asparagus, beets, lima beans, peas, corn, and hominy), sliced bacon, peanut butter, pickles, vinegar, salad dressing, spices, sugar and molasses.	46
S. B. McBeath	Nov. 26, 1889	1889	17,225	Pens	Stationery
Epstein, Pollitz & Co.	May 9, 1893	1892	22,981	Linen Dusters	Lap dusters
Union Pacific Tea Co.	June 12, 1894	1890	24,854	Coffee	Tea & Coffee
Wm. H. Priesmeyer	Aug. 10, 1897	1897	30,493	Borax	Laundry articles
Camel Company	Aug. 23, 1904	1903	43,237	Trimnings for freight car doors	Railway supplies
Geo. E. Sovereign	Nov. 24, 1908	1907	71,496	Babbitt metal	14
Campbell Holton & Co.	Feb. 1, 1910	1907	76,618	Certain foods, including olive oil, sardines, flour, mustard and preserves	46
Standard Oil Co. of N. Y.	Feb. 3, 1914	1913	95,171	Refined petroleum	15
Rosscendate Reddaway Belting & Hose Co.	June 16, 1914	1893	97,797	Machine belting	35
Ashtabula Corrugated Box Co.	Jan. 3, 1922	1914	150,225	Shipping Containers	2
James A. Campbell	Apr. 6, 1920	1919	130,047	Eye-brow brushes	29
Americus R. Underwood, Jr.	Apr. 3, 1920	1919	133,851	Certain clothing	39

OMAR.

American Tobacco Co.	Aug. 19, 1919	1902	126,239	Cigarettes	17
Rust Parker Co.	Feb. 6, 1917	1915	115,399	Certain foods, including canned tomatoes, sweet potatoes, beets, pumpkins, spinach, stringed beans, corn, peas, fruits and salmon	46
Omaha Flour Mills Co.	Oct. 29, 1918	1918	123,380	Wheat flour	46
The Omar Co.	Nov. 9, 1920	1920	136,884	Root beer	45
Rust Parker Co.	Feb. 8, 1921	1914	139,622	Package-chocolates	46
John Frederick Vaughan	Jan. 18, 1916	1905	108,143	Tea	46
A. W. Faber	Apr. 6, 1915	1914	103,421	Lead, ink, erasers, pen-holders, etc.	37

OMEGA.

J. T. Fargason Co.	May 7, 1918	1917	121,549	Mustard and spices	46
Pressing & Orr Co.	Jan. 22, 1907	1904	59,896	Canned fruits and vegetables	50
H. C. Cole Milling Co.	Dec. 22, 1908	1883	71,897	Wheat and flour	46

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
J. T. Fargason Co.	Apr. 15, 1913	1912	91,083	Blended coffee	46
Conto & Co.	Oct. 12, 1915	1910	106,145	Salt	6
H. Kohnstamm & Co.	Oct. 27, 1914	1914	100,837	Laundry Starch	6
Louis Brandt & Frere	July 24, 1894	1894	25,036	Watch-movements	Horology
National Tool Company	June 16, 1903	1902	40,623	Certain named forms	Steel
Parker, Stearns & Co.	Mar. 11, 1913	1885	90,653	Syringes	44
Shultz Belting Co.	Mar. 3, 1914	1903	95,676	Leather belting	35
Aktiebolaget, etc., Omega	June 30, 1914	1912	98,031	Milking Machines	23
Wm. Crane Co.	May 23, 1906	1900	53,026	Gas stoves	Gas appliances
Alabama Chem. Co.	Dec. 22, 1908	1903	71,978	Fertilizer	10
John S. Tilley Ladders Co.	Dec. 19, 1916	1906	114,579	Ladders	50
Standard Crayon Mfg. Co.	Sep. 26, 1922	1903	159,540	Crayons	37
John Klapos	June 17, 1919	1914	125,821	Shoe cleaner	4
Standard Oil Co.	Nov. 9, 1920	1919	136,946	Lubricating oil	15

RAINBOW.

Flora W. Pinkus	May 28, 1922	1918	153,823	Cigarettes	17
Merrell S. Copeland	Sep. 6, 1921	1920	146,205	Chewing gum	46
Package Confectionery Co.	Dec. 12, 1922	1911	162,335	Candy	46
J. Ralson Cargill	July 27, 1920	1919	133,371	Table Syrup	46
Ohio Dairy Co.	June 3, 1919	1918	125,709	Evaporated milk	46
Anderson Mfg. Co.	July 25, 1916	1916	111,547	Gelatin	46
National Milling Co.	Sep. 14, 1909	1908	75,212	Wheat flour	46
Edwin Shivell	Jan. 21, 1908	1907	67,167	Sea foods	54
Pressing & Orr Co.	Jan. 22, 1907	1903	59,897	Canned fruits and vegetables	50
W. H. Jones & Co.	May 22, 1906	1897	53,046	Wine	Wine
Peck, Freen & Co.	June 6, 1899	1899	33,032	Tea, coffee and cocoa	Tea, coffee and cocoa
N. K. Fairbank Co.	Oct. 23, 1900	1888	35,301	Laundry soap	Soap
Gulfport Grocery Co.	Oct. 27, 1914	1914	100,805	Stock-feed	46
Wald & Geller	June 13, 1916	1907	110,794	Hosiery, underwear, etc.	39
Buffalo Cereal Co.	Nov. 9, 1915	1914	106,940	Rolled oats	46
H. J. Hackett & Co.	Apr. 2, 1895	1880	26,338	Liniment	Medical compounds
R. J. Farquhar & Co.	June 30, 1896	1893	28,468	Flowering bulbs	Bulbs
Peerless Rubber Mfg. Co.	July 31, 1900	1899	34,974	Certain rubber goods	Rubber Goods
Horton Mfg. Co.	May 15, 1906	1905	52,756	Fishing-rods	Fishing tackle
Commercial Fertz. Co.	July 5, 1910	1910	78,690	Fertilizer	10
G. A. Lippincott	Jan. 9, 1912	1910	84,839	Buttons	40
Clayton Bros., Inc.	Apr. 22, 1913	1912	91,285	Shears and scissors	23
Louis Rodney Berg	Mar. 24, 1914	1913	95,870	Playing-cards	22
Geo. Borgfeld & Co.	Apr. 20, 1915	1914	103,887	Stationery Supplies	37
Etna Chemical Co.	Aug. 10, 1915	1915	105,652	Furniture polish	16
True's Oil Co.	June 11, 1918	1917	121,974	Liquid fuels	15
Herbert C. Crawford	Apr. 29, 1919	1917	125,270	Skin ointment	6
Waite Grass Carpet Co.	Dec. 23, 1919	1919	128,197	Floor-rugs	42
Crocker Broom & Brush Co.	Jan. 6, 1920	1919	128,346	Brooms	29
Illinois Razor Strop Co.	Apr. 12, 1921	1920	141,144	Razor strops	4
R. F. Johnston Paint Co.	May 10, 1921	1891	142,282	Paints	16
H. P. Rawlings Wall Paper Co.	July 12, 1921	1920	144,625	Wall-paper	37
W. N. Stevenson & Co., Inc.	Aug. 15, 1922	1922	157,773	Umbrellas	41
Rainbow Lawn Sprinkler Co.	Dec. 20, 1921	1919	149,719	Lawn sprinklers	13
John Oliver Johnson	June 13, 1922	1920	155,993	Bird gravel	1
Rainbow Import & Export Corp.	Sep. 26, 1922	1921	159,487	Kitchen utensils	13
Benjamin Franklin Collender	May 28, 1895	1895	26,584	Crayons	Crayons
Frank A. Ransom	June 10, 1884	1883	11,255	Package dyes	Dry dyeing material
Amelia Gladu Roy	Jan. 3, 1922	1921	150,548	Headache capsules	6
Rodeheaver Co.	May 16, 1922	1920	155,066	Phonograph records	36
Kellogg Seed Co.	May 4, 1920	1919	131,150	Field & Grass Seed	1

TUXEDO.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
American Tobacco Co.	May 17, 1921	1896	142,426	Smoking and chewing tobacco	17
F. P. Garrettsen & Co.	June 20, 1899	1890	33,088	Coffee	Coffee and Tea
Charles T. Long	Mar. 27, 1894	1893	24,423	Baking-powder	Baking-powder
Semrad Chemical Co.	May 17, 1921	1895	142,757	Vanilla extract	46
Napa Fruit Co.	July 2, 1912	1909	87,240	Dried Fruits	46
R. B. Beaumont	June 9, 1891	1890	19,664	Jellies and confections	Food
Delafield, McGovern & Co.	May 23, 1893	1893	23,088	Canned fish, fruit and vegetables	Canned goods
Clover Leaf Wine Co.	Jan. 30, 1894	1893	24,139	Whiskey, wines, brandy, etc.	Liquors
Early & Daniel Co.	Jan. 18, 1916	1913	108,126	Horse feed	46
James C. Davis & Son	Nov. 20, 1894	1891	25,536	Washing powders	Washing compounds
Crampton Co.	May 24, 1887	1887	14,435	Fabrics	Surfaced fabrics
Rogers & Brother	Dec. 9, 1890	1890	18,693	Knives, forks and spoons	Plated ware
New Haven Sewing Machine Co.	June 20, 1899	1890	33,108	Sewing machines	Sewing Machines
Meyerhoff & Jacobs	Dec. 3, 1901	1901	37,405	Negligee shirts	Shirts
Auguste Silz	Apr. 28, 1903	1903	40,232	Certain poultry	Poultry
F. A. Hardy & Co.	Dec. 27, 1904	1903	43,932	Opera Glasses	Optical goods
New York Belting & Pkg. Co., Ltd.	Mar. 9, 1909	1901	73,027	Hose	35
Turner & Harrison Pen Mfg. Co.	Mar. 16, 1909	1901	73,145	Writing pens	37
Hood Rubber Co.	Oct. 22, 1912	1911	88,752	Rubber shoes	39
Naumkeag Steam Cotton Co.	Nov. 5, 1912	1911	89,052	Sheets and pillow cases	42
S. L. Allen & Co.	May 4, 1915	1914	104,116	Sleds	19
Badger Bag & Paper Co.	May 25, 1915	1914	104,373	Paper Bags	2
Parker Bros.	Sep. 14, 1915	1908	106,014	Games	22
Pioneer Suspender Co.	Aug. 7, 1917	1902	117,917	Suspenders	40
Harry Solomons & Son	July 18, 1922	1920	156,927	Ladies hats	39
Manufacturers Oil & Grease Co.	Dec. 26, 1922	1907	162,969	Oils & greases	15
Pings & Pinner	Apr. 26, 1892	1891	21,037	Kid gloves	Gloves
F. A. Palmer	June 17, 1890	1888	18,043	Wire mattresses	Bed-room furniture
Waterbury Watch Co.	Nov. 29, 1892	1892	22,070	Watches	Time keeping instruments

VELVET.

Liggett & Myers Tobacco Co.	Nov. 2, 1920	1907	136,516	Smoking and chewing tobacco	17
Edward K. Morris	Nov. 25, 1913	1913	94,299	Chewing-gum	46
Herbert L. Hildreth	May 1, 1906	1885	52,070	Candy	Confectionery
Herbert L. Hildreth	Aug. 13, 1895	1885	29,946	Confectionery, ice cream and beverages	Confectionery
Detroit Creamery Co.	July 9, 1912	1910	87,326	Butter	46
Mazo Bros.	Dec. 3, 1912	1912	89,280	Coffee	46
Terre Haute Brewing Co.	Nov. 13, 1906	1891	57,345	Beer	51
Borden's Condensed Milk Co.	Dec. 18, 1906	1904	58,577	Condensed milk	48
Central Fruit Mar. Co.	Mar. 3, 1914	1909	95,600	Citrus fruits	46
Harry T. Stewart	Aug. 31, 1915	1914	105,946	Bread	46
The Cabell Co.	Mar. 6, 1917	1916	115,733	Powdered egg	46
Interstate Cotton Oil Refining Co.	Aug. 7, 1917	1916	117,863	Shortening	46
Fabean Hedges, Inc.	May 4, 1920	1919	131,135	Mallow topping for desserts	46
Commercial Milling Co.	July 20, 1920	1898	133,230	Wheat flour	46
S. Ewart & Co.	June 25, 1907	1896	63,547	Rice	44
Proctor & Gamble	Dec. 19, 1882	1880	99,884	Soap	Soap
Joseph Potter	Apr. 27, 1920	1918	130,560	Safety-razors	23
Oswego Maize Products Co.	Jan. 31, 1905	1904	44,108	Starch	Groceries
Ameriann Lead Pencil Co.	July 9, 1912	1904	87,308	Lead pencils	37
Frank W. Witcher & Co.	Sep. 13, 1898	1898	31,961	Rubber heels	Foot-wear

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
George Lyman Snow	July 10, 1900	1900	34,861	Shoe-blackening	Leather dressing
North American Hat Co., Inc.	Sep. 19, 1905	1905	46,469	Hats	Headwear
Oscar H. Hersey	May 1, 1906	1905	52,205	Tooth-picks	Toilet articles
Schorseh & Co.	Feb. 12, 1907	1906	60,493	Paper bags	37
W. T. Schackley & Son Co.	Aug. 27, 1907	1906	64,907	Leather belting	35
Reynoldsville Brick & Tile Co.	Aug. 3, 1909	1906	74,743	Tile and bricks	12
Adelbert P. Little	Aug. 9, 1910	1910	79,134	Typewriter carbon paper	11
Ideal Mfg. Co.	Oct. 25, 1910	1909	79,980	Fly-killers	50
Columbia Cotton Oil & Provision Corp.	Dec. 20, 1910	1909	80,413	Lard, cured meats and cotton seed oil	46
Diamond Steel Truck Co.	Jan. 10, 1911	1909	80,582	Furniture casters	13
David C. Earnest	Nov. 21, 1911	1911	84,221	Grate bars	34
Frederick L. Sluper	Dec. 22, 1914	1911	101,539	Paints	16
American Lead Pencil Co.	Jan. 5, 1915	1914	101,614	Rubber erasers	37
Harley B. Burdick	Jan. 12, 1915	1911	101,829	Lawn seed	1
John Wigmore & Sons Co.	Feb. 9, 1915	1907	102,348	Bearings	23
Commercial Paste Co.	June 6, 1916	1915	110,635	Paste	5
Lee Tire & Rubber Co.	Feb. 6, 1917	1914	115,355	Inner tubes	35
Agricultural & Commercial Time Co.	Oct. 2, 1917	1915	118,729	Agricultural lime	10
A. V. Victorious & Co.	Dec. 11, 1917	1914	119,836	Hosiery	39
Willis Jason Kendrick, Inc.	Apr. 8, 1919	1915	125,113	Corks	50
W. N. Salisbury & Co.	Oct. 24, 1922	1912	160,653	Rubber tiling	12

LUCKY STRIKE.

R. A. Patterson & Co.	Dec. 14, 1886	1883	13,882	Plug tobacco	17
American Tobacco Co. as successor to R. A. Patterson & Co.	Sep. 4, 1917	1883	118,372	Smoking and chewing tobacco, tobacco plugs and cigarettes	17
The Vaccaro Cigar & Liquor Co.	Sep. 12, 1905	1889	46,371	Whiskey	Spirituuous Liquors
Wilbur S. Burns	Jan. 6, 1920	1916	128,320	Laundry soap	4
Manchester Furniture Co.	Dec. 17, 1907	1907	66,646	Wash boards	24
Arthur E. Shultz	Oct. 21, 1913	1911	93,930	Certain Seeds	1
Lamor Brothers	Aug. 22, 1922	1921	158,111	Hosiery	39

EDGEWORTH.

Larus & Brother Co.	Dec. 23, 1919	1902	128,095	Smoking tobacco	17
Progressive Co-operative Assn. of Boston	Apr. 1, 1913	1912	90,920	Bread	46
John F. Edgeworth	Aug. 21, 1906	1901	56,037	Flour in sacks or barrels	44

PRINCE ALBERT.

R. J. Reynolds Tobacco Co.	June 27, 1911	1907	82,471	Smoking and chewing tobacco, cigars, cigarettes and snuff	17
F. S. Ainsa Co., Inc.	Aug. 2, 1921	1920	145,305	Coffee	46
Salter Silk Co., Inc.	Apr. 11, 1916	1895	109,551	Textile threads	43
Frank S. Dure Co.	June 24, 1902	1901	38,524	Harness	Leather goods
Rubber Clothing Co.	Oct. 4, 1881	1878	8,694	Rubber Coats	Wearing apparel
Earl & Wilson	Sep. 18, 1900	1900	35,052	Shirts	Underwear
Penn Bros. Mfg. Co.	Jan. 9, 1912	1911	84,873	Suspenders	40

REX.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
J. F. Zahm Tobacco Co.	Sep. 3, 1907	1895	64,983	Smoking and chewing tobacco	Tobacco products
Liggett & Myers Tobacco Co. as successor to J. F. Zahm	May 15, 1923	1915	168,082	Smoking and chewing tobacco and cigarettes	17
J. D. and R. S. Christian Co.	Nov. 19, 1895	1892	27,279	Baking powder	Food
Cudahy Packing Co.	July 7, 1896	1890	28,558	Hog products	Meats
William A. Megrath	May 26, 1903	1899	40,440	Certain beverages	Beverages
Duluth Brewing and Malting Co.	May 31, 1904	1902	42,717	Beer	Malt liquors
Hulman & Co.	Sep. 26, 1905	1885	46,619	Coffee	Coffee
Ralph Goldsmith	Aug. 23, 1910	1909	79,272	Rice	46
Corn Products Refining Co.	Jan. 10, 1911	1903	80,630	Corn Syrup	46
Alec Lunneshloos	Nov. 7, 1911	1911	84,114	Olive Oil	46
New Orleans Manufacturers Agency Co., Ltd.	Dec. 26, 1911	1900	84,661	Canned sardine	46
American Candy Co.	May 5, 1914	1898	96,850	Chocolates	46
Cudahy P'kg. Co.	Mar. 6, 1906	1890	50,295	Lard	P'k'g house powder
Cudahy P'kg. Co.	Mar. 6, 1906	1890	50,296	Beef Extract	" "
New Orleans Import Co., Ltd.	Jan. 1, 1907	1900	59,086	Spices	50
Cudahy P'kg. Co.	Jan. 1, 1907	1890	59,098	Smoked Meats	52
Griffin & Shelley Co.	Apr. 9, 1907	1900	61,857	Raisins	50
Humiston Food Preserving Co.	Apr. 17, 1883	1882	10,203	Food Preservatives	Chemicals
P. Hanson Hiss Mfg. Co.	Feb. 26, 1889	1888	16,298	Furniture Polish	Polish
Chadbourne and Moore	Mar. 2, 1897	1896	29,621	Goring	Rubber goods
Edward C. Smith	Feb. 8, 1898	1896	31,230	Seale remover	Chemicals
Obeur-Nester Glass Co.	Oct. 23, 1900	1896	35,303	Prescription bottles	Bottles
The Weiss Mfg. Co.	Sep. 3, 1901	1897	36,996	Certain clothing	Wearing Apparel
John S. Burton	Feb. 3, 1903	1892	39,739	Liniment	Liniment
Flintkote Mfg. Co.	Feb. 10, 1903	1902	39,785	Roofing Felt	Roofing Materials
Fred. Gretsch	Sep. 1, 1903	1902	41,054	Musical Instruments	Musical Instrument
Crucible Steel Co. of America	Oct. 6, 1903	1903	41,265	Tool Steel	Steel
Lobel, Coleman and Marcus	Jan. 19, 1904	1903	41,911	Suspenders	Men's furnishings
William S. Carpenter	Jan. 26, 1904	1902	41,943	Embalming fluid	Disinfectants
Weiffenbach Mfg. Co.	Feb. 9, 1904	1901	42,017	Razor straps	Sharpening straps
Cumalena Mfg. Co.	Feb. 16, 1904	1903	42,070	Face Lotion	Medicinal compounds
Bauer and Black	Feb. 23, 1904	1898	42,143	Porous Plasters	Plasters
Arthur Blumer	Mar. 8, 1904	1900	42,223	Bottle Stoppers	Bottle stoppers
Rex Polish Co., Ltd.	May 24, 1904	1904	42,670	Shoe polish	Blackening
Crew Levick Co.	July 26, 1904	1902	43,066	Lubricating Oils	Oils
F. A. Hardy Co.	Aug. 9, 1904	1904	43,137	Nose Guards	Optical goods
Charles A. Fisher	Jan. 24, 1905	1904	44,023	Mattresses and Cushions	Mattresses
E. W. Conklin & Son	Sep. 5, 1905	1899	46,089	Grass Seed	Seeds
E. C. Atkins & Co.	Oct. 10, 1905	1889	46,786	Saws	Tools
Chicago Tubing & Braiding Co.	Feb. 6, 1906	1903	49,516	Flexible Tubing	Tubing
Albert Hochheimer	Oct. 5, 1909	1909	75,435	Ostrich Feathers	1
Coe-Stapley Mfg. Co.	Nov. 1, 1910	1909	80,036	Hand pumps	23
Prentiss Vise Co.	Dec. 13, 1910	1904	80,376	Vises	23
Corn Products Refining Co.	Dec. 27, 1910	1901	80,462	Laundry Starch	6
The Curtain Supply Co.	May 2, 1911	1910	81,679	Curtain Rollers	32
Adolph Muehlmann	June 27, 1911	1904	82,460	Engraving Blocks	50
Royal Specialty Co.	Mar. 12, 1912	1910	85,769	Electric Vibrators	44
American Mfg. Co.	June 25, 1912	1910	87,031	Bagging	42
Rex Ignition Mfg. Co.	Aug. 6, 1912	1910	87,809	Spark plugs	21
Johann Lund	Nov. 19, 1912	1911	89,192	Portable Shelving	32
Rex Motor Co.	Feb. 4, 1913	1911	90,134	Engines	23
Rex Battery Co.	Feb. 18, 1913	1912	90,376	Batteries	21
Muralo Co.	Feb. 25, 1913	1907	90,464	Calceimine	16
Rex File & Saw Co.	Mar. 4, 1913	1906	90,580	Files and Rasps	23
Duplexo Vacuum Cleaner Company	Nov. 24, 1914	1912	101,272	Vacuum Cleaners	23
Columbia Guano Co.	May 18, 1915	1898	104,321	Fertilizer	10
Universal Peleu Mfg. Co.	June 15, 1915	1913	104,821	Moving Picture Films	26
Union Bag & Paper Co.	Nov. 6, 1906	1903	57,191	Paper Bags	37

DEFENDANT'S EXHIBITS.

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Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Rex Fire Extinguisher Co.	Jan. 22, 1907	1894	59,974	Certain Fire Extinguishing Apparatus	26
Hammel, Riglander & Co.	June 4, 1907	1893	62,997	Pliers	23
Cudahy Packing Co.	Aug. 13, 1907	1903	64,629	Lye	6
Fort Pitt Bedding Co.	June 16, 1908	1905	69,480	Bed springs	32
Wm. H. Colgan Co.	Aug. 25, 1908	1905	70,392	Switch-boxes	21
Eagle Pencil Co.	Oct. 27, 1908	1908	71,046	Fountain pens	37
Rex Typewriter Co.	June 20, 1916	1914	110,989	Typewriters	23
American Wringer Co.	Aug. 1, 1916	1912	111,696	Clothes wringers	24
Chain Belt Co.	Oct. 3, 1916	1914	112,851	Concrete Mixing machines	23
United States Wire Mat Co.	Oct. 17, 1916	1916	113,458	Fly-killers	50
Cudahy Packing Co.	Feb. 6, 1917	1902	115,313	Canned pork and beans	46
Bystrom and Hull	June 19, 1917	1912	117,106	Bread and pastries	46
Waterbury Co.	June 19, 1917	1916	117,233	Manila rope	7
William E. Crutcher	July 3, 1917	1916	117,299	Cure for hog cholera	6
Edward Green	Apr. 19, 1921	1920	141,366	Soap dyes	6
Federal Rubber Co.	May 17, 1921	1912	142,521	Hoof-pads	3
Rex Leather Goods Corporation	June 28, 1921	1920	144,266	Brief cases	3
John Blue	Dec. 27, 1921	1905	149,848	Fertilizer Distributor	23
George Borgfeldt & Co.	Nov. 7, 1922	1915	161,076	China Tableware	30
C. A. Bear & Co.	Feb. 13, 1923	1921	164,166	Sherbet compound	46
Brunswick-Balke-Collender Co.	Apr. 24, 1923	1921	167,181	Game Table Cushions	22
Patent Cereals Co.	Aug. 13, 1918	1915	122,410	Adhesive paste	5

THE FOLLOWING REGISTRATIONS APPEAR IN
VOLUME III.
(in the order listed)

NAVY.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
G. W. Gail & Ax.	Aug. 18, 1885	1884	12,512	Smoking & Chewing Tobacco	Manufactured Tobacco.
American Tob. Co. as successor to Gail-Ax.	Apr. 6, 1920	1865	130,034	do	17
National Candy Co.	Oct. 4, 1910	1906	79,778	Candy	46
Cobb. Preserving Co.	Mar. 24, 1914	1898	95,890	Canned fruits & Vegetables	46
Jos. L. McCready	Aug. 21, 1906	1893	55,766	Shucked Oysters	54
Wayne County Condensed Milk Co.	June 2, 1908	1908	69,324	Condensed Milk	46
Griffith-Durney Company,	July 14, 1908	1901	19,847	Canned salmon	46
Rowe Edward Kidder,	Oct. 23, 1917	1916	119,084	Wheat flour	46
Revere Rubber Co.	Mar. 12, 1889	1888	16,372	Rubber hose	Hose
Eugene S. Hylan	Nov. 5, 1895	1878	27,177	Bunting	Dry-goods
Chas. B. Mumford	Mar. 1, 1898	1884	31,344	Certain medicines	Medicines.
H. W. Johns Mfg. Co.	May 8, 1900	1898	34,641	Coating material	Fibrous Material.
Benj. H. Seabury	May 26, 1903	1899	40,460	Fusible metals	Metals.
A. J. Lower Co.	July 28, 1908	1908	70,090	Oiled Clothing	39
Union Card & Paper Co.	Sept. 20, 1910	1894	79,616	Writing paper	37
Roehm-Richards Co.	Apr. 13, 1915	1912	103,763	Linen & Cotton suits	39

ARMY AND NAVY.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
James Moroney	Jan. 28, 1908	1907	67,242	Cigars	Tobacco products
Gohl & King	Oct. 11, 1910	1899	79,828	Coffee	46
Thomas B. Kane	Jan. 10, 1922	1920	150,861	Soft Drinks	45
Mathens J. Lanx	Sep. 21, 1915	1915	106,050	Chocolate Flavored pop-corn	46
Grady Mfg. Co.	Sep. 12, 1916	1897	112,503	Metal polishes	4
National Brewing Co.	Feb. 10, 1891	1890	18,998	Beer	Malt Liquors
Farrish Bros.	May 28, 1895	1895	26,610	Baking Powder	Baking powder.
Chas. H. Parrish	Dec. 3, 1895	1895	27,404	Flavoring extracts	Extracts.
Jos. Mortimer Johnson	May 16, 1899	1898	32,897	Scouring powder	Scouring compounds.
Bryan Marsh Co.	Oct. 20, 1903	1899	41,343	Electric lamps	Lamps.
U. S. Playing Card Co.	Feb. 6, 1906	1890	49,419	Playing cards	Games.
T. S. Ruddock & Son,	Aug. 7, 1906	1906	55,188	Leather shoes	36
Rice, Stix Dry-Goods Co.	Dec. 11, 1906	1894	58,263	Hosiery	41
James Moroney,	Dec. 11, 1906	1885	58,370	Whiskey	49
Frank E. Fennessey	Jan. 1, 1907	1862	59,162	Leather Blacking	11
International Watch Co.	July 23, 1907	1907	64,141	Watches	59
Nonotuck Silk Co.	Nov. 11, 1919	1917	127,462	Thread	43
Geneva Cutlery Co.	Nov. 2, 1915	1910	106,853	Razors, etc.	23

POLO

Liggett & Myers Tobacco Co.	Feb. 20, 1923	1887	164,301	Smoking and chewing Tobacco and cigarettes.	17
Wm. Wrigley, Jr. Co.	Sep. 29, 1914	1914	100,065	Chewing gum	46
Pennsylvania Chocolate Co.	Jan. 8, 1907	1906	59,451	Chocolate & Cocoa	47
Stoddard, Gilbert & Co.	Aug. 15, 1911	1908	83,102	Canned fruits and vegetables and tomato cat-sup	46
do	Aug. 29, 1911	1911	83,290	Wheat flour	46
Rudolph F. Bartel	Mar. 27, 1908	1905	50,711	Suspenders	Underwear.
Covert Mfg. Co.	Apr. 16, 1907	1906	62,000	Snip hooks	13
C. G. de Tonnancour	Nov. 12, 1907	1905	66,191	Boots and shoes	11
F. S. Royster Guano Co.	July 6, 1915	1915	105,139	Fertilizers	10
Worumbo Mfg. Co.	Apr. 27, 1920	1910	130,595	Woolen goods	42
Egon Hassinger	Mar. 7, 1922	1916	152,815	Rubber erasers	37

BLUE RIBBON.

American Tob. Co.	Feb. 18, 1908	1878	67,775	Chewing & Smoking Tobacco	Tobacco Products.
DuWane Norris	Jan. 1, 1907	1897	59,230	Chewing gum	47
Oakford & Fahnstock	Aug. 26, 1913	1891	93,246	Certain named foods	46
Thomas J. Knodie Co.	Feb. 10, 1920	1911	129,294	Hams, Bacon & Lard	46
D. Nicholson	Sept. 9, 1884	1867	11,470	Coffee	Groceries
J. Wassmer	Sept. 7, 1866	1884	13,648	Lager beer	Beverages
David W. Lewis	Aug. 8, 1899	1899	33,321	Butter	Dairy Products.
German American Provision Co.	Apr. 3, 1900	1900	34,410	Canned meats and lard	Canned foods.
Paragon Malt Extract Co.	Mar. 5, 1907	1906	61,117	Malt extracts	51
Blue Ribbon Mining Milling & Investment Co.	May 14, 1907	1902	62,518	Ginger ale & root beer	45
Regina Flour Mill Co.	Dec. 31, 1907	1873	66,788	Wheat Flour	44
Greever-Lotspech Mfg. Co.	May 5, 1903	1899	40,273	Flavoring extracts	Flavoring Extracts.
George E. Bond	Oct. 31, 1905	1902	47,175	Eggs	Foods
Knickerbocker Chocolate Co.	Feb. 13, 1906	1893	49,714	Chocolate & cocoa	46
F. B. Chamberlain Co.	May 24, 1910	1897	78,038	Rollod oats	
Yakima County Horticultural Union	July 4, 1911	1908	82,547	Fresh apples	46
Fresno Home Packing Co.	May 7, 1912	1895	86,397	Dried fruits and raisins	46
Somers & Co.	Apr. 1, 1913	1911	90,932	Stock food	46
Richard Hellman	May 5, 1914	1912	96,884	Mayonnaise dressing	46

DEFENDANT'S EXHIBITS.

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Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Standard Milling Co.	Oct. 26, 1915	1911	106,694	Rice	46
Wabash Chemical & Baking Powder Co.	Oct. 17, 1916	1915	113,463	Desert powder	46
Leon Renaker	Feb. 6, 1917	1911	115,390	Turkeys	46
Blue Ribbon Candy Co.	May 24, 1921	1875	142,936	Candy	46
Proctor & Gamble	Feb. 18, 1890	1890	17,553	Soap	Soap
Oakley Soap & Perfumery Co.	Feb. 12, 1895	1894	26,027	Perfumery	Toilet Articles
Hazard Powder Co.	June 4, 1895	1895	26,654	Powder	Explosives
William H. Fosmer	June 30, 1896	1896	28,480	Milk & Cream	Dairy products.
Daniel Oppenheimer & Anton Oppenheimer	Nov. 8, 1898	1894	32,120	Hats	Headwear
Rosemary Mfg. Co.	May 22, 1906	1903	52,962	Cotton Damask	Dry goods.
Buegeleisen & Jacobson	Feb. 5, 1907	1901	60,406	Violin strings	65
Wiebusch & Hilder, Ltd.	Apr. 16, 1907	1901	62,082	Grass hooks	20
Charles Plunkett	Nov. 17, 1908	1906	71,341	Brooms	29
Durant-Dart Carriage Co.	Dec. 15, 1908	1894	71,805	Certain vehicle	19
Alabama Chem. Co.	Dec. 22, 1908	1903	71,973	Guano	10
Edw. K. Graham	Jan. 5, 1909	1908	72,181	Hosiery & underwear	39
National Enameling & Stamping Co.	Feb. 2, 1909	1907	72,559	Enameled sheet metal wear	13
International Metal Polish Co.	Feb. 16, 1909	1905	72,754	Metal polish	4
Geo. D. Snyder	Apr. 20, 1909	1904	73,481	Talcum Powder	6
Oakford & Fahnestock	July 20, 1909	1891	74,569	Chemical Preparations	6
Wood, Stubbs & Co.	Aug. 4, 1903	1903	40,866	Certain seeds	Agricultural products
Joseph Cogan	Aug. 1, 1905	1899	44,974	Dog collars	Dog trappings.
Southern Spring Bed Co.	Sept. 12, 1905	1903	46,204	Beds	Furniture
Rubber & Celluloid Harness Trimming Co.	Jan. 23, 1906	1902	49,131	Lather Brushes	Brushes
Peerless Rubber Mfg. Co.	Dec. 28, 1909	1891	76,258	Rubber hose	35
Keystone Steel & Wire Co.	Feb. 15, 1910	1909	76,791	Barbed wire	13
Edwin D. Hoocy	Aug. 29, 1911	1910	83,252	Song birds	1
Chas. S. Moore	Jan. 28, 1913	1912	90,036	Milk pails	2
Geo. Borgfeldt & Co.	Oct. 21, 1913	1913	92,813	Hair nets	42
Paul H. Geaswein Co.	Dec. 2, 1913	1913	94,369	Jewelers saws	23
L. Hemmerdinger Co.	Apr. 28, 1914	1913	96,674	Gold paints	16
Gilbert Toilet Co.	May 19, 1914	1913	97,135	Head lotion & hair tonic	6
Buckley-Newhall Co.	Oct. 19, 1915	1910	106,206	Sewing machines	23
do	Oct. 19, 1915	1910	106,207	Baby carriages	19
do	Oct. 19, 1915	1910	106,210	Phonographs	36
do	Oct. 19, 1915	1910	106,211	Refrigerators	31
do	Nov. 9, 1915	1910	106,937	Gas Lamps	34
do	Nov. 9, 1915	1910	106,938	Electric stoves	21
do	Dec. 7, 1915	1910	107,487	Household furniture	32
do	Dec. 7, 1915	1910	107,488	Clothes wringers	24
do	Dec. 26, 1916	1910	114,622	Oil-cloths	20
do	Dec. 26, 1916	1910	114,624	Knitted Goods	42
do	Jan. 23, 1917	1910	115,065	Rain coats	39
Russel Playing Card Co.	Aug. 28, 1917	1907	118,332	Playing cards	22
Diamond Match Co.	Aug. 21, 1923	1905	171,989	Matches	9
Blue Ribbon Knitting Mills, Inc.	Oct. 2, 1923	1922	173,914	Bathing suits	39
Miller Rubber Co.	Mar. 7, 1922	1921	152,885	Water Bottles	44
Whitman Elect. Mfg. Co.	July 12, 1921	1919	144,650	Plug fuses	21
D. P. Harris Hdware & Mfg. Co., Inc.	Aug. 16, 1921	1919	145,687	Bicycles	19
New England Spun Silk, Corp.	Oct. 17, 1922	1921	160,252	Silk yarns	43
Electric Milker Corp.	Feb. 6, 1923	1921	163,915	Milking machine	23
Electrical Heating Appliance Co.	Mar. 6, 1923	1922	165,178	Waffle irons, etc.	21
George Alonzo Brown	Nov. 30, 1920	1919	137,565	Hen's nests	50
John L. Lonsaman	Jul. 11, 1916	1915	111,429	Hog Cholera cure	6

CLIPPER.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Liggett & Myers Tobacco Co.	Apr. 20, 1897	1875	29,869	Plug Tobacco	Tobacco
do	Jan. 10, 1922	1897	150,881	Smoking & Chewing tobacco	17
Mrs. B. F. Lilley, Jr.	Aug. 24, 1920	1920	134,291	Candies	46
Wm. Numson & Sons.	Nov. 23, 1897	1878	30,887	Oysters, meats, fruits, vegetables, jellies and soups.	Canned and preserved goods.
Lyon & Greenleaf	Jun. 25, 1907	1889	63,530	Wheat flour.	44
Merchants Coffee Co. of New Orleans, Ltd.	Feb. 11, 1913	1901	90,228	Coffee compound	46
J. B. Williams & Co.	Feb. 21, 1882	1876	9,131	Shaving soap	Soaps.
W. Ayres & Sons.	Aug. 20, 1889	1887	16,938	Horse nets	Horse clothing.
Grand Rapids Cycle Co.	Mar. 31, 1896	1889	28,051	Bicycles	Vehicles.
Albert T. Ferrell	Apr. 30, 1901	1879	36,353	Certain machinery	Machinery.
Wm. S. Cooper Brass Works.	Mar. 25, 1902	1890	37,995	Valves and spigots.	Miscellaneous.
Singer, Nemick Co.,	Dec. 26, 1905	1888	48,334	Steel	Metals.
Miller Lock Co.	Sep. 11, 1906	1903	56,305	Locks & Keys	25
Robin Hood Ammunition Co.	Jan. 19, 1909	1908	72,388	Shot Gun Shells	9
Flexible Belt Facing Co.	Mar. 2, 1909	1906	72,924	Belt hooks	23
Hartman Pharmacy	Oct. 26, 1909	1897	75,603	Remedy for corns	6
American Pin Co.	Apr. 11, 1911	1902	81,425	Safety pins	40
Diamond Rubber Co.	Jan. 14, 1913	1898	89,829	Rubber tubing	35
Henry Disston & Sons.	Feb. 3, 1914	1870	95,075	Saws	23
American Mfg. Co.	Jan. 16, 1917	1916	114,920	Oakum	1
do	Feb. 6, 1917	1916	115,269	Rope and cord	7
Mount Vernon - Woodberry Mills, Inc.	May 1, 1917	1917	116,443	Cotton duck	42
J. C. Blair Co.	Oct. 8, 1919	1918	123,014	Paper & Stationery.	37
Dunlap America, Ltd.	May 24, 1921	1920	143,989	Golf balls	22
Clipper Lawn Mower Co.	Dec. 13, 1921	1898	149,569	Lawn mowers	23
Watkins Cottrell Co	Sep. 10, 1901	1901	37,035	Knives & Razors	Cutlery

HORSE SHOE.

American Snuff Co.	July 3, 1900	1900	34,842	Snuff	Tobacco
Wm. Wrigley Jr. Co.	Sept. 29, 1914	1914	100,068	Chewing gum	46
Freeman & Shaw	July 11, 1882	1882	9,537	Canned goods	Canned goods
Habricht, Braun Co.	Nov. 9, 1915	1915	107,065	Dried fruits and Veg.	46
Wisconsin Condensed Milk Co.	Nov. 9, 1915	1914	107,132	Condensed milk	46
A. L. Bauman	Aug. 5, 1882	1882	9,588	Crackers	Breadstuffs
Angelo Fazio	Apr. 23, 1907	1902	62,170	Pickles-mustard, etc.	50
Thomas Armstrong	July 19, 1892	1892	21,470	Washing powder	Washing powder
Felix H. Hunicke	Nov. 24, 1896	1896	29,190	Gloves,	Gloves
Meinecke & Co.	Mar. 5, 1901	1900	35,991	Cushions	Sick Room supplies
E. J. Brooks & Co.	Nov. 14, 1905	1897	47,674	Car seals	Seals
Abbot Augustus Low	Nov. 19, 1907	1907	66,332	Branding irons	21
Amer. Agricultural Chem. Co.	Sep. 23, 1913	1875	93,514	Fertilizers	10
Sangnoit Toilet Paper Co. Inc.	Oct. 21, 1913	1913	93,919	Toilet paper	37
Rennons, Kleinkle & Co.	June 6, 1916	1887	110,608	Brushes and tools	29
Racine Auto Tire Co.	Jan. 30, 1917	1910	115,225	Inner tubes	35
do	July 22, 1919	1919	126,063	Rubber heels	39
Emil Goodwirth	Sep. 14, 1920	1919	134,662	Writing ink	11
Kansas City Smelting Co.	Nov. 8, 1921	1921	148,103	Babbitt metal	14
Altoona Overall factory.	Apr. 26, 1921	1914	141,470	Overalls	39
Alsing & Co., Ltd.	Apr. 14, 1894	1887	25,120	Matches	Matches
Dr. Decker Medicine Co.	July 29, 1884	1880	11,363	Certain medicines	Medicines
C. A. Griswold	Apr. 12, 1887	1886	14,274	Corsets	Apparel
Vacheron & Constantine	Oct. 14, 1884	1883	11,578	Watches	Time-keepers

KING PIN.

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Liggett & Myers Tobacco Co.	July 27, 1920	1919	133,454	Smoking and chewing tobacco and cigarettes.	17
Columbia Salmon Co.	Oct. 3, 1916	1916	113,697	Canned Salmon	46
Manser Mill Co.	June 19, 1917	1916	117,180	Wheat flour	46
Siegfried Ellbogen	Apr. 29, 1913	1912	91,329	Coats, vests and trousers	39
*Sinclair Mfg. Co.	Sep. 14, 1920	1915	134,805	Powdered lye	6
U. S. Rubber Co.	May 24, 1921	1920	143,202	Rubber boots and shoes	39

LIBERTY BOND.

Chas. P. Stanley Cigar Co.	Nov. 13, 1917	1917	119,396	Cigars, cigarettes and smoking and chewing tobacco	17
John J. Dalton	Nov. 13, 1917	1917	119,275	Chewing gum and mints	46
Winter Park Citrus-Growers Asso.	June 18, 1918	1917	122,050	Fresh citrus fruits	46

LIBERTY BELL.

Rucker & Witten Tobacco Co.	July 31, 1900	1893	34,983	Chewing tobacco	17
Pacific Coast Syrup Co.	June 7, 1921	1920	143,700	Cane and Maple syrup	46
Pillsbury Flour Mills Co.	May 31, 1921	1885	143,430	Wheat flour	46
Smith & Nessler Co.	Jan. 21, 1919	1918	124,207	Canned sardines	46
George B. Foley	Oct. 30, 1894	1887	23,415	Medals	Medals
Beatrice E. Linquist	Jan. 10, 1922	1919	150,886	Phonographs	36
Ferry & Napier	May 2, 1899	1895	32,783	Hats	Wearing apparel
Assy Shahien & Co.	Aug. 1, 1905	1903	44,934	Razors	Cutlery
Arneeth & Minton Mfg. Co.	Mar. 29, 1921	1919	140,736	Salve	6
Frank E. Morse Co. Ltd.	June 4, 1895	1895	26,653	Portland Cement	Cement
Frederick S. Gwyer	Feb. 18, 1896	1895	27,829	Nails and Tacks	Hardware
Chas. Heinrich	Nov. 29, 1904	1901	43,782	Saddle polish	Polishing Compounds
Ganss-Langenberg Hat Co.	Oct. 17, 1905	1892	46,914	Hats	Wearing apparel
Alabama Chemical Co.	Dec. 22, 1908	1903	71,952	Guano	10
McAdoo & Allen	Oct. 19, 1915	1915	106,462	Leather Welting	39
Estate of Geo. Pabst, Dec'd	May 1, 1917	1895	116,446	Window shades	42
Rice-Stix Dry Goods Co.	June 5, 1917	1915	116,921	Hosiery	39

LIBERTY.

American Tobacco Co.	May 17, 1921	1891	142,428	Smoking and chewing tobacco	17
Eckhart & Swan	June 23, 1891	1885	19,748	Flour	Flour
Duty S. Thompson	May 2, 1893	1892	22,914	Baking powder	Leavening preparation
B. S. Janney, Jr. Co.	May 23, 1893	1893	23,082	Syrup & Molasses	Sugar products
James Butler	May 16, 1899	1892	32,883	Condensed Milk	Food
Alvah L. Reynolds	Dec. 26, 1899	1899	33,938	Cheese	Dairy products
James Butler	June 5, 1900	1900	34,739	Tomato catsup	Food
Hancock & Co.	Oct. 7, 1902	1901	38,996	Dried fruits	Evaporated fruits
Colonial Salt Co.	Nov. 21, 1905	1901	47,770	Salt	Salt
Rheinstrom, Beltman, Johnson & Co.	Dec. 18, 1906	1905	58,662	Preserved fruits	50
Henry Maillard	Jan. 28, 1913	1884	90,032	Chocolate	46
F. G. Vogt & Sons, Inc.	Mar. 3, 1914	1912	95,723	Lard, ham, Bacon	46
Triumph Mills	Jan. 19, 1915	1889	101,989	Coffee	46
T. E. Wareheim & Bro.	Jan. 26, 1915	1907	102,227	Butter	46
Hollock-Denton Co.	Oct. 31, 1916	1899	113,728	Flavoring extracts	46
G. H. Wetteran & Sons Grocer Co.	Apr. 16, 1918	1899	121,229	Canned meats & vegetables	46

Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
John L. Kellogg	Sep. 10, 1918	1918	122,713	Toasted Corn flakes	46
Richardson Corp.	Dec. 31, 1918	1918	124,045	Soft drinks	45
Apalachee Packing Co.	Jan. 21, 1919	1917	124,186	Canned oysters	46
S. H. Grinstead Co. Inc.	Mar. 18, 1919	1918	124,845	Dressed poultry	46
James R. McCleskey	Apr. 29, 1919	1917	124,276	Cake	46
P. W. Coppersmith Co.	May 13, 1919	1918	125,330	Fresh tomatoes	46
Waukesha Pure Food Co.	June 3, 1919	1918	125,693	Jelly powders	46
Pioneer Fruit Co.	Sep. 30, 1919	1917	126,750	Fresh fruits	46
Liberty Baking Co.	Apr. 19, 1921	1914	141,404	Bread	46
Liberty Maccheroni Mfg. Co.	Aug. 2, 1921	1905	145,400	Macaroni	46
Fred Hollander & Co.	Sep. 19, 1905	1878	46,456	Beer	Malt liquors
C. Gardner	Feb. 2, 1892	1890	20,664	Remedy for heart disease	Medicine
The Liberty Cycle Co.	Oct. 8, 1895	1893	27,146	Bicycles	Vehicles
Weingarten Bros.	Nov. 10, 1896	1896	29,125	Corsets	Wearing app.
Piebes & Co.	Aug. 4, 1903	1903	40,850	Children's headgear	Wearing app.
Standard Wall Paper Co.	Aug. 25, 1903	1899	41,005	Wall paper	Paper
Josiah T. Hair	Dec. 22, 1903	1898	41,728	Fire extinguisher	Chemicals
Davis Sewing Machine Co.	Apr. 26, 1904	1898	42,504	Sewing machines	Sewing Machines
Liberty Silk Co.	May 1, 1906	1902	52,153	Dress silk	Dry goods
American Thread Co.	May 7, 1907	1893	62,386	Spool cotton	43
Charles H. Besly	July 30, 1907	1896	64,304	Letter files	70
Eberhard Faber	Nov. 26, 1907	1899	66,361	Lead pencils	70
Simmons H'dware Co.	Sep. 1, 1908	1908	70,440	Lanterns	34
Peerless Rubber Mfg. Co.	Feb. 9, 1909	1904	72,666	Rubber hose	35
Illinois Watch Case Co.	Aug. 1, 1911	1893	82,890	Watch cases	27
Western Electric Co.	Aug. 15, 1911	1906	83,114	Batteries	21
Liberty Vending Co.	Mar. 5, 1912	1911	85,664	Vending machines	23
Liberty Paint Co. Inc.	July 9, 1912	1908	87,350	Calcimine	16
Waldes & Co.	July 14, 1914	1913	98,447	Snap buttons	40
Carl Essbach	Sep. 22, 1914	1886	99,833	Musical instruments	36
Liberty Motion Picture Co.	Oct. 6, 1914	1914	100,129	Motion picture films	26
Carter Paint Co.	Dec. 15, 1914	1914	101,442	Dry cleaner	4
Ed. Seevers	May 16, 1916	1915	110,298	Lumber	12
Cohn & Rosenberger Inc.	June 13, 1916	1915	110,727	Jewelry	28
Innovation Elect. Co.	July 4, 1916	1914	111,237	Vacuum cleaner	23
Liberty Motor Car Co.	Oct. 10, 1916	1916	113,092	Automobiles	19
John Braun & Sons.	Nov. 14, 1916	1905	113,940	Lawn-mowers	23
John S. Tilley Ladder Co.	Dec. 19, 1916	1914	114,578	Ladders	50
Automatic Pencil Sharpener Co.	Oct. 30, 1917	1917	119,166	Pencil sharpener	37
Liberty Stove Polish Co.	Dec. 25, 1917	1917	119,969	Stove polish	4
H. W. Doughten	Feb. 12, 1918	1917	120,482	Grass seed	1
International Shoe Co.	Feb. 12, 1918	1916	120,497	Boots and shoes	39
The Standard Ultra-marine Co.	Apr. 23, 1918	1917	121,349	Laundry blues	6
American Optical Co.	May 14, 1918	1917	121,573	Measuring appliances	26
Busch & Jolles, Inc.	June 11, 1918	1917	121,863	Turpentine	16
Halcomb Steel Co.	June 11, 1918	1917	121,892	Tool steel	14
Alexander N. Pierman	July 2, 1918	1917	122,156	Signal horns	21
Morris C. Shriver	July 9, 1918	1918	122,237	Thermometers	26
Hoyt Metal Co.	Sep. 17, 1918	1918	122,798	Rabbitt metal	14
A. J. Reach Co.	Oct. 8, 1918	1918	123,058	Sporting goods	22
J. Michael Eilers	Oct. 15, 1918	1918	123,113	Hand bags	3
Apothecaries Hall Co.	Oct. 29, 1918	1916	123,314	Fertilizer	10
Annin & Co.	Jan. 14, 1919	1918	124,074	Flags	50
Jacob W. Elvyn	Feb. 18, 1919	1918	124,445	Toys	22
E-Z-Fit Artificial Limb Co.	Mar. 18, 1919	1918	124,839	Artificial limbs	44
Chas. M. Drinkwater	May 20, 1919	1918	125,419	Ash sifters	23
Ezekiel Brothers	May 20, 1919	1918	125,422	Dyes	6
The Deming Co.	Aug. 26, 1919	1918	126,410	Spraying machines	23
The Dwelle-Kaiser Co.	Sep. 16, 1919	1919	126,527	Window glass	33
Consolidated Pharmacal Laboratories	Oct. 11, 1919	1918	126,929	Foot powder	6
Morris Leader	Nov. 18, 1919	1919	127,682	Hair tonic	6
Crown Cork etc. Co.	Dec. 9, 1919	1917	127,818	Bottle Capping Machine	23

DEFENDANT'S EXHIBITS.

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Registrant	Date of Registration	Date of Adoption	No.	Subject	Patent Office Class
Liberty Chemical Co.	Dec. 9, 1919	1919	127,850	Auto Freezing solution	6
Clearfield Clay Working Co.	Dec. 16, 1919	1918	127,914	Brick & Tile	12
American Aluminum Co.	Feb. 10, 1920	1918	129,257	Cooking utensils	13
Hyman Julius	Mar. 9, 1920	1919	129,760	Writing ink	11
Liberty Chain Co.	Apr. 20, 1920	1919	130,345	Tire grip chains	13
Liberty Bread slicer Co. Inc.	May 11, 1920	1918	131,338	Bread slicing machine	23
Geo. W. Hartzell	June 29, 1920	1917	132,700	Airplane propellers	19
Diamond Grinder Co.	Aug. 3, 1920	1918	133,633	Grist-mills	23
Liberty Knife Co.	Nov. 2, 1920	1919	136,515	Pocket knives	23
John T. Hunter, Inc.	Jan. 4, 1921	1918	138,643	Matches	9
Joseph Rene Ayotte	May 3, 1921	1916	141,853	Spark-plugs	21
Kansas City Broom Co.	May 17, 1921	1918	142,647	Brooms	29
Russell Mfg. Co.	May 31, 1921	1917	143,446	Garters and Suspenders	40
Marshall Field & Co.	June 28, 1921	1917	144,199	Knitting needles	40
J. M. Ernst & Son	July 26, 1921	1920	145,091	Scratch feed	46
W. W. Bevan Co.	Jan. 31, 1922	1918	151,315	Paper cups	2
Liberty Mirror Works	Feb. 14, 1922	1922	151,844	Mirrors	19
Liberty Machine Works	Nov. 14, 1893	1860	23,828	Printing presses	6
Woolner Distilling Co.	July 9, 1907	1907	63,769	Denatured alcohol	6
Thomas E. Clark	Apr. 20, 1920	1918	130,280	Electric fans	21
M. M. Rhodes & Sons Co.	Apr. 26, 1921	1919	141,821	Shoe laces	40
Robinson Bros. Co.	Jan. 24, 1893	1892	22,364	Toilet soap	Soap
Archer Starch Co.	Jan. 14, 1902	1900	37,646	Starch	Starch

**DEFENDANT'S EXHIBIT NO. 34.—PATENT OFFICE
PAMPHLET SHOWING TRADE-MARKS CLASSI-
FICATION.**

UNITED STATES PATENT OFFICE.

UNITED STATES STATUTES CONCERNING THE REGISTRATION
OF TRADE-MARKS

With the Rules of the Patent Office Relating Thereto.

Revised July 26, 1920.

(SEAL) Department of the Interior.

Washington

Government Printing Office, 1920.

(Page 46 only of above is printed):

**CLASSIFICATION OF MERCHANDISE UNDER
THE ACT OF MAY 4, 1906.**

1. Raw or partly prepared materials.
2. Receptacles.
3. Baggage, horse equipments, portfolios, and pocketbooks.
4. Abrasive, detergent, and polishing materials.
5. Adhesives.
6. Chemicals, medicines, and pharmaceutical preparations.
7. Cordage.
8. Smokers' articles, not including tobacco products.
9. Explosives firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steam-fitting supplies.
14. Metals and metal castings and forgings.
15. Oils and greases.
16. Paints and painters' materials.
17. Tobacco products.
19. Vehicles, not including engines.
20. Linoleum and oiled cloth.
21. Electrical apparatus, machines, and supplies.
22. Games, toys, and sporting goods.
23. Cutlery, machinery, and tools, and parts thereof.
24. Laundry appliances and machines.
25. Locks and safes.
26. Measuring and scientific appliances.
27. Horological instruments.
28. Jewelry and precious-metal ware.
29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery.
33. Glassware.
34. Heating, lighting, and ventilating apparatus, not including electrical apparatus.
35. Belting, hose, machinery packing, and nonmetallic tires.
36. Musical instruments and supplies.
37. Paper and stationery.
38. Prints and publications.
39. Clothing.
40. Fancy goods, furnishings, and notions.
41. Canes, parasols, and umbrellas.
42. Knitted, netted, and textile fabrics.
43. Thread and yarn.
44. Dental, medical, and surgical appliances.
45. Beverages, nonalcoholic.
46. Foods and ingredients of foods.
47. Wines.
48. Malt extracts and liquors.
49. Distilled alcoholic liquors.
50. Merchandise not otherwise classified.

NOTE.—Class 18 was abolished February 24, 1909

DEFENDANT'S EXHIBIT NO. 35—LIST OF BRANDS.

P. LORILLARD COMPANY.

CIGARETTES.

S. ANARGYROS.	E. A. Special No. 3 Plain
A. A. G. Gold	E. C. Korah Plain
A. C. K. Special Plain	E. F. M.
A. D. S. J. Special No. 3 Plain	E. K. (in Gold) Cork
A. D. S. J. Special Cork	E. R. H. Cork
A. B. D. Special Cork	Earl King
A. E. H. Special No. 3 Cork	Egyptienne Du Lux Pl.
A. F. J. Cork	Egyptian Fairies Pl.
B. A. R. Plain	Egyptian Luxury Pl.
B. P. O. E. Cork	Egyptian Luxury Cork
Bairam	El Karah
Bouton Rouge	Erbers Cork
Calumet	Europa Special
Coat of Arms	F. B. Co. Gold
Columbian Cork	G. D. C.
Columbian Plain	Thos. Garvin No. 3 Cork
C. T. H. Special Pl.	“ “ “ 3 Gold
Dardenelles Plain	G. W. Lange Spec. Straw
Dabs Plain	Helmar
Dabs Cork	House of Lords
Deities No. 1 Plain	H. L. P. Spec. Gold
“ “ 1 Cork	H. E. W. Special Pl.
“ “ 3 Cork	H. E. W. Spec. No. 1 Pl.
“ “ 3 Plain	J. A. A. Ck. No. 1
“ “ 3 Straw	J. A. A. Ck. No. 3
“ “ 3 Gold	J. D. L. Spec. No. 1 Pl.
Deities After Dinner Pl.	J. R. Special
“ “ “ Cork	J. F. Plain
“ Ladies Gold	King Edwards Plain
“ “ M. P.	K. H. C. Special Plain
“ A. D. Splits	La Reine
Du Lux Egyptian Pl.	Luxus Plain
D. A. B. S. Plain	Mi Lady
D. A. B. S. Cork	Mogul Cork
De L. N.	Mogul Plain
D. E. L. N. Plain	Mogul Ex. Plain
D. C. M. Plain	Mogul Ex. Cork
E. C. H. Special No. 3 Cork	Motor Cork
E. A. Special No. 1 Plain	Murad
	M. W. W. No. 3 Cork

Nebo Cork	St. E. W. Plain
O. L. A. Special Plain	Turkey Red Plain
Otto Special Pl.	Turkey Red Cork
Oriental Zephyrs Pl.	Turkish Trophies Pl.
P. H. R. Plain	Turkish Trophies Cork
R. E. S. Special Gold	Twelfth Night Ck.
R. E. S. Special Cork	Utmost
Sacket Special	V. F. Special No. 3 Pl.
Sir Don Spec. Pl. J. C. A.	W. D. Special Cork
“ “ “ Ck. R. A. D.	Yuslick Plain
“ “ “ E. F. M.	Zelmo.
Specials Ck. (Val Electric Sign Co.)	Zira

P. LORILLARD COMPANY.

LITTLE CIGARS.

Between the Acts	Havana No. 1
Bengal L. C.	Hoffman House L. C.
Big Run	Hustler
Big Run Specials	Jack Rose
Blue Rings	Le Roy
Buffo 5s	Lyceum
Caliph	New French
Cameretts	New Light
Cupid Bouquet	Puritan
Gilt Edge	Spanish Puffs
Golden Rod	St. Leger
Grenadier	Sub Rosa L. C.
Grenadier Special	Sub Rosa Cigarros
Half Dime	Van Bibber L. C.

P. LORILLARD COMPANY.

PLUG.

Big Lump	La Favorite
Boston	Mechanics Delight
Boston Gem	Neptune
Bullion	Nickle Nugget
Climax	No Brand
Forget-me-not	Old Navy
Good Smoke	Overall
Green Turtle	Planet
Hot Shot	Pride of Regiment
Job Lot	Prince Nugget

Rations	Splendid
Rebecca	Teaser
Redicut	Terrapin
Rose Leaf	Three Black Crows
Scrapno Pressed	Washington ¼s

P. LORILLARD COMPANY.

LONG CUT.

Best Dark	Moonbeam
Bright Red Cross	Night Watch
Challenge	No. 1
Comet	No. 1 Oronoko
Extra Eagle	No. 2
Extra Oronoko	No. 49
Extra Oronoko Grade	Old Crisis
Hoyt's Medium	Old Joy
Hoyt's No. 1	Old Monmouth
Five Cent Ante	Old Plantation
Flower of Kentucky	Punch & Judy
Flying Eagle	Push
Four Thirties	S. S. & S.
Golden Cupid	Shorts Dark & Bright
Green Turtle	Snow Flake
King Koal	Sweet Banner
Level Head	Sweet Red Cross
Live Stock	Sweet Scented
Long	Totem
Lorillard's I. X. L.	W. & S. Oronoko
Lorillard's Stripped	Warpath
Mechanics' Delight	Wedding Cake
Miner's Stript	Yellow Jacket
Mixed	

P. LORILLARD COMPANY.

PLUG CUT.

Alligator	Chips
Bagdad	Duplex
Bald Eagle	Flagman
Black Joe	Friends
Black & Tan	Ideal
Brotherhood	Just Suits
Bull's Eye	Kozy
Bull's Head Mixture	

Little Rhody	Ripple
Lucky	Rose Leaf
Lucky Grade	Sensation
Canada	Sincero Fumo
Kensington	Social
Myrtle Navy Grade	Trout Line
Pippin	Union Leader
Old Pepper	Veribest
Omega	West Grizzly
Our Dandy	Wild Rose
	World's Fair

P. LORILLARD COMPANY.

GRANULATED.

Bantam ?	Simon Pure
Boston	Tube Rose
Eureka	Two Nickels
Gold Block	White Puff
Honey Dew	Yacht Club
Kent Mixture	Bamboo

CLIPPINGS & SCRAP.

P. LORILLARD.

B. & L. Clips	Mechanics Delight
Cigar Clips	Mugsy Scrap
Climax Clips	O. S. Clips
Happy Thought R. C.	Pan Handle Scrap
Havana Blossoms	Rebecca Clips
High Grade Navy Clips	Scotten Navy Clips
Kosciuszko Clippings	X. X. Clips

LUHRMAN & WILBERN.

Bag Pipe	Old Nut
Beech Nut	Polar Bear
Honest Scrap	Scrap Iron
Natural Leaf	

P. LORILLARD COMPANY.

FINE CUT.

Bee	Oriole
Blot	Oriole Grade
Boss Bite	Crown of Delight (Oriole Grade)
Cavendish	Faultless (Oriole Grade)
Century Bright	Peerless
Century Red	Peerless Grade
Challenge	Honey Dew
Choctaw	Picnic
Chow Chow	Pineapple
City Century	Pioneer
Cornucopia	Plain
Croton	Plain Grade
Eureka	Banner Plain
Five Cent Ante	Prairie Rose
Full Weight	Protection
Golden Thread	Protection Grade
Golden Thread Grade	Strawberry
Chesapeake	Prowler
G. & A. 5¢ Chewing	Punkin Pie
Hard Cash	Punkin Pie Grade
Hard Cash Grade	Farmers
Olymp	Red Label
Hearts Ease	Rose Leaf Bright
Kimball Shorts	Rose Leaf Dark
Lils. Cavendish	Royal
Luxury	Stag
Neptune	Sweet Home
Old Fashion	The Buck
Old Fashion Grade	Tiger Bright
Albany	Tiger Dark
Common Sense	Tiger O. S.
Troy	Try It
Old Timer	Twin Sisters
Orange	Wage Worker
Oriental Grade	
S. & S.	
Snow Flake	
Spot Cash	

P. LORILLARD COMPANY.

PACKAGE CHEROOTS AND CIGARS

MARKETED BY

THE DUKE'S MIXTURE DEPARTMENT A. T. CO.

American Chief	Old Glory Cheroots
Blue Seal (No Wrapping	Old Hickory
Mat. 6/9)	Old Mexico
Cannon Ball's 3's	Old Virginia Cheroots
" " 6's	Perfection Cigarros
Canvas Back	Plantation Trip
Champion Victor	Perfection 3's
Charmers	Porcupine Quills
Cloth Top	Possum
College Tips	Prince Cheroots
Crete	Puritan
Early York	Red Cross
Famous Red Flag	Red Rocket
First Quality	Richmond 3's
Five Beauties (No Wrap.	Rough Cheroots
Mat. 7/19)	Royal Taste
Florodora	Seal Skipper
Florodora 50s	Sly Boy
Giants	The Three of Us
Havana Plums	Three Black Crows
Havana Sprouts	Three Cuckoos
Havana Infantes	Three Jacks
Havana Specials	Two Orphans
Havanette Threes	U. S. Bond
Havanette Londres	U. S. 5's
Le Roy Cubanas	U. S. 3's
Life Preservers	Virginia Cheroots
Modern Times	Walker's Giants (Name ap-
New Wrinkle	pears on Label)
Nickel Treat (No Wrap.	War Eagle
Mat. 6/9)	Whitlock Club

List made Nov. 22, 1911.

P. LORILLARD COMPANY.

FEDERAL CIGAR COMPANY BRANDS.

LITTLE CIGARS.

Allwin	Le Roy Majors
Beaux Arts	Le Roy Brevas
Bengal Invincibles	Minuet
Black & White	No. 445 Cigarros
Buck	Orlando Juniors
Buffo Cigars	Palma de Cuba No. 10
Buffo Grand	Pioneer
Capt. Marryat Opera	Poncico
Columbia	Prince George Cadets
Consols	Prince George Petit Dues
Cuban Dainties	Royal Bengals
El Belmont Quarters	Royal Princess
El Solano	Spanish Trophies
Estabrook & Eatons Stu-	Van Bibber Bouquets
dents	" " Lilliputanos
Figaro	X To be discontinued when
Flexo Giants	wrapping material is ex-
Florodora Operas	hausted. Have not clear
Flor de Madrid	title to brand.
Havana Amer. Matinees	
Hoffman House Cavalier	
" " Chicots	DEAD BRANDS.
" " Magnums	El Fenix Students
" " Manhattans	Famous Havana Juniors
" " Petit Dues	General Run
" " Specials	La Linda
Isle of Pines Minuetes	Mardi Gras Jrs.
Jaynos 10-13	Opera Perfection
King Roger	Red Swan Special
La Belle Creole Tots	Sergeant Club
X La Plaza	Temple Bar
La Preferencia Trios	

P. LORILLARD COMPANY.

ACTIVE CIGAR BRANDS—FEDERAL CIGAR COMPANY

JANUARY 1, 1911.

A. B.'s Londres	Big Bill T
Adad	Big Gun
Adamezyk's Special	Blank Seconds
Adelosa	Block House
Admar	Blue Teal
A. H. Frie's Special	Blue Violet
Alden Supply Co.'s 1858	Boehm's Special
Alfred the Great	Boney's Pride
Alice Nielsen	Boyer's Poke Hollow
Alles' No. 139	Smokers
Alta	Boyer's Special
Alvina	Brenan's Pride
Amarilli	Brindle
Amco	Brod Vana
American Beauties	Buffalo Pearl
Andrew M. Luksic's Special	Bug Pincher
Armory Hotel	Cabinet Council
Atkinsin's Special	Campbell's Special a 10¢
Atlas	Cigar for 5¢
A. T. Parfrey Special	Canego
Auditorium	Capitola
Austin's Special	Captoco
Austrienne	Carrozza's Special
Auto Girl	Cerine's Best
Autogo	Chesco
Awenda	Christmas Greetings
Balajszis' Special	Ciampala's Pastime
Banner Havana Seconds	Clark's 76 Special
Barger's Choice	Clearosa
B. C. K. Special	Cliff Weil Cigar Co.'s Shop
Beeswing	Smokers
Beldame	Clubdom
Berger's Special	Club House
Bernatzki's Leader	Club Night
Berne	Cohen's Cotton Palace
Bertig Bros. Famous	Coldato
B. H. Special	Colonel Bill
Biddy McGee	Colonists
	Comedian

Commercial Queen	Elkinton's Special
Cooney's Special	El-Ko
Cornelius	El Processo De Cuba
Count Gondomar	El Mecanico
Country Lasses	El Merito de Cuba
Cow Boy	El Rizado
Crabtrees Guarantee Un-	El Rement
equalled	El Tino
Cracker Jack	El Toreador
Cream Puffs	El Trillo
Creola	El Vase
Crescello	Emma Abbott
Crowned Beauty	Empire Girl
Cuba Florrie	Empire State
Cuban Favorite Resagos	Evan's 408
Cuban Panetelas	Evergood
Cuban Smokers	Entre
Cupido	Factory Leaders Selected
Daily Choice	Factory Smokers Selected
Daily Service	Factoryville House Special
Daniel Cohen's Special	Fair Helen
Dave Powell Special	Falcon Special
Davison Bros. Londres	Fancy Nancy
Democrat	Favette
Dempsey's Best	Federal Pride
Dew Drop	Felix Garcia
Dextet	Fermani's C. Columbo
Diana	Fermani's Special
Diploma Grande	Flashlight
Dixie Doodle	Flor de Astro
Dixoletta	Flor de Lone Star
Dominick's Special	Flor Mantanza
Don Alvar	Flor de Union
Don Brave	Flor de Verdi
Don Ramire	Franklin Throw Outs
Dot. (S. & P. Co.)	Freeland Beauty
Dragoon	Fritch Bros. Tobacco Ci-
Dropiewski's Choice	gars
Dwyer's Best	Frotana
Edrena	Ftorkowski's Best
Edw. J. Phelps	G. A. Marsh Special
El Cafe Bouquet	Gencha's Special
El Captain General	General Corbin
El Enfatico	General Dan Morgan
El Top	General Hannibal

Genuine Havana Seconds	Holz's Best Value for 5¢
Genuine Havana Rosages	Honest
General Woodford	Honey Tips
George Chylak Special	Hoppies Best
Geo. Washington Smokers	Hudson Brand
Gerstin's Favorite	Hunt Club
Globe Runner	Hyman's Favorite
Goddard's Superfine	Ideals
Godshalk's 1006	Ifhlejango's La Rampooza
Golden Prince	Injun
Golden Tower	Insalaco's Special
Goldstein's Special	Irish Jaunting Car
Golf Links	J. A. McDonald Special
Goodman's Special	J. A. Young Special
Gov. Hoffman	J. & B.
Grand March	J. Farina's Special
Grand Order	J. G. Blaine
Grand Union	J. G. N. Special
Grand Union Special	J. O. Connor's Special
Great Game	J. J. Olenddyke's Special
Great Scott	J. P. La Brune's Favorite
Greeley Square	J. S. R.
Grenadier	James Hamilton Lewis
Greskovich's Special	Jennie Jones
Grigger & Jaike's Special	John Frasco's Special
Grumbler	John Law
Gulls Special	John's new one 5¢ Straight
H. A. Munro's Special	John's Special
Hance's Special	Johnetta Hotel
Happy Smoke	Johnie Smoke Born 1810
Harlequin	Still Smoking Good
Harvest King	Jones Supreme (Buck Ho- tel)
Havana Consul	Jos. J. Sparks
Havana Creams	Joy Smoke
Havana Maid	Judicia
Havana Rothchilds	Junius
Havana Seconds	Justinian
Headline	Karvonis' No. 220
Helmet	Kerpets' Special
Hendrick Hudson	Kilcullen's Special
Henry Horn's Best	King of India
Hidden Fortune	Knickerbocker
Hildand Chieftain	Kocher & Picketts Premier
Hildora	Koch's Leader
Holland Cigar Co.'s Smokers	Kolobuk's Special

Kopec's Family	Lord Dugdale
Kotarski's Leader	Lord Rochester
Krauser's Special	Lord Sheldon
Krzyzanski's No. 48	Lord Talbot
Kucma Supreme	Loreto
Kuhno	Los Trofeos
Kuni's Best	Loyalty
La Almilla	Lulu Gal
La Bella Vera	Lustig's Special
Labor Queen	Levin's Special
La Cornola	La Rosa de Cuba
La Cubec	Lyon's Special
Lady Bird	Los Puros
Lady George	La Cresta
La Flor de Alfonso Garcia	La Thais
La Flor de Hence	Levenburg's Oley
La Flor de Kosciusko	Lazaro Lopez
La Fragosa	Lenox Cafe Special
La Maradad	L. Vaglak Special
La Muleta	Lloyd's Special
La Nacina	Leo
La Norita	London Swells
La Pila	Louis F. Moritz's Specia
La Reina Regents	La Relacion
La Rosa Gloria	McNeil & Haggin's Co.'s
Lardie's Special	Trade Mark
La Santilla	Mack's Leader
La Seradosa	Madge Lessing
La Vera	Mailey's Leader
La Vana Rica	Maggie Cline
Leador Constant Rovenski	Manila Caballeros
Leonard's Best	Manoel the Great
Leonard's Special 5¢ Cigar	Manuela
Le Roy	Marjorie
Levin's Havana Seconds	Masavage's Pride
Liberty Bird	Marblehead
Liberty Girl	M. B.
Lillian Russell	McGill's Lake House Spe-
Lisco	cial
Little Beauty	Merceita
Little Chief	M. T. Cos. Dips
Lonsdale	M. T. Co.'s Knickerbocker
Lord Aston	Michael Turok's Best
Lord Dover	Midvale
Lord Grey	Mid Valley Cigar

Milbrodt's Leader	Our Bob
Milda	Our Driver
Miss North	Our Favorite
Miss Swell	Our Leader
Mon Rovia	Our 127
Moon Light	Our Smokers
My Favorite	Pantano
Mitchel House Special	Papas Bros. Best
Mandate (Manufactured for Newman & Snoddy)	Parker Blake Co. Knicker- bockers
Marca Royal	P. G. Cigar
Monogram	Pearl Palace
M. J. Hasting's Special	Peck's Special
M. D. Urso's Special	Penn Statue
Nandora	Peola
Nash's Supreme	Persian Belle
National Hotel	Perun's Leader
Nat Cig. Stands Resagos	Peter's Best
National Seal	Pfeiffer-Loeb Cigar Co.'s National
National Stock	Stock
Nautica	Pietro's Special
Nattrass' Best No. 16	Piscotie's 642
Naylor's Special	P. J. McNulty's Crest
Nefta	P. J. McNulty's Special
Nellie Power	Pleasant Hill Special
New Market	Plover
New Rose	Polly Prim
Newsboy	Pompei Cafe's Special
Nickel Winner	Poncico
Nif-tee	Porto Rico Rockets
Nita	Post Master
Non-Pareil Seconds	Price's Special
Nordstrom's Special	Prime Beauty
Nugget's	Prime Choice
Nutitus' Special	Primrose
Nutitus' Leader	Prince Teck
Novajovsky's Specials	Princess de Rose
Oath	Purity
Old Story	Quaker Queen
On Time	Queen Addie
189 Earnest Special	Queen Cloe
Opie Read	Quigley's Favorite
Our Albert	Rail Road
Our Best	Rapid Results
Our Big Three	

Rigoni's No. 72	Saturday Special
Rebel Queen	Saxon Chief
Recreation	Savitsky's Columbus Cigar
Red Boot	Scotch Seal
Red Chief	Scottie
Red Cross Pharmacy's	Seconds
Special	Senior
Red Domino	Servi's Special
Red Spot	Seth Jones Special
Reginita	Shells
Regulator	Shelly & Lewis' Londres
Reilly's Special	Shining Light
Reese's Special	Shop Smokers
Restuccia's Best 5¢	Shorter's Havana Seconds
Right U Are	(a good 5¢ Smoke)
Rittenhouse Square Perfec-	Ship Champions
tos	Signola
Rokoszs Special	Sinke's Londres
Roman Queen	Skirmish
Rooney's Best	Slugoski's Town Seller
Rose de Syria	Smile
Rosa de Valle	Smoker's Paradise Big
Rose Bud	Value
Roth Tobacco Co.'s No. 1	Smoke Penn Dandy 5¢ Ci-
Rovinski's Special	gar
Roxy King	Smokettes
Royal Blood	Solitaire
Royal Harvest	Spanish Belle
Royal Hunt	Spanish Bride
Royal Iris	Star
Royal Maid	Standard Beauty
Royal Nibs	Standard Havana Seconds
Royal Swell	Staunton's Best
Royal Perfecto	Steel Trap
Russia's Best	Steele Wedeles Crest
R. & G. Club Favorite	Sternberg & Sons Gold
Rex Cigar Co.'s Factory	Medal
Smokers	St. Julien
Royal Duke	St. Lawrence
Ross Special	Strohl's Best
Reconciler	Strongheart
Sahy's Supreme	Stryjak's Special
Sales Leader	Stuyvesant Club
Sand's Pride	Sudana
Sand Bana	Sweet Songstress

Santa Rosa	Tropical Bouquet
St. Paul Custom House	Turkana
Shanbacher Special	Two Brothers
Selected Havana Rosagos	Turco
Shonholtz's Special	The Palace Special
Smith's Special	The Invincible Schley
Stein's Special	Tampanita
T. A. Harrington's Favor- ite	The Presto 5¢ Cigar
Tallman's Preferred	Top Notch
Tamposa	The Putnam Special
The B. Feiock Havana Sec- onds	U-No-Us Club
The Big Gun Perfectos	Uncle John's Special
The Boar	Uncle Sam
The Celebrated K. B. C.	Uncle Peter's Straight 5s
The Colonnade	Upshur
The Dozier Drug Co.'s Dips	Valley Belle
The Dream	Vanities
The Dremios	Victor Biagioni's 63
The Eagle (Panatelas)	Vintage
The Eastern (J. H. Collins Prop.)	Vote
The Flirt	Velvet
The H. H. Brams Club	Walsh' Special
The Inn Special	Wavel Cafe
The Massie	Wego
The New Imperial	Wendling Special
Theo. S. Robaczewski's Zbyszko	Wilkes Barre Record
The Sign of Quality	Winnie Worth
The Three Authors	Winnita
The Towns Favorite	Wintor's Pioneer
The Victor	Womolsdorf's Best
Throw Outs	Waw Waw Smokers
Thunder & Lightning	W. A. Special
Tillman's Havana Specials	Wm. A. Stickney's Flor de Colonna
Town Seller	Young America
Trilby	Youchumas Special
Tropical	Zada
	Zadejkas Sisters
	Zannoner's Special
	Zurenda's Dobra

**DEFENDANT'S EXHIBIT NO. 36—ASSIGNMENT,
AMERICAN TOBACCO COMPANY TO P. LORILLARD
COMPANY, DEC. 1, 1911.**

THIS INDENTURE, made and entered into this First day of December, Nineteen Hundred and Eleven, by and between

THE AMERICAN TOBACCO COMPANY, a corporation duly created, organized and existing under and by virtue of the laws of the State of New Jersey (hereinafter called the "VENDOR," party of the first part, and

P. LORILLARD COMPANY, a corporation duly created, organized and existing under and by virtue of the laws of said State of New Jersey (hereinafter called the "VENDÉE," party of the second part.

WITNESSETH: That for and in consideration of the sum of One Dollar (\$1.00) and divers other good and valuable considerations to the Vendor through its duly appointed and authorized agents in hand paid by the Vendee, the receipt whereof is hereby fully acknowledged by the Vendor, the Vendor has given, granted, bargained and sold, and doth by these presents give, grant, bargain, sell, alien, assign, transfer, set over, deliver, confirm and convey unto the Vendee, and its successors and assigns absolutely and forever, the factories, plants, brands and businesses, and capital stocks of tobacco manufacturing corporations as follows:

All the rights of The American Tobacco Company in the old P. Lorillard Company, to-wit: All the common stock, and One Million Five Hundred and Ninety-six Thousand One Hundred Dollars (\$1,596,100) at par out of a total issue of Two Million Dollars (\$2,000,000) of 8% preferred stock.

All the stock of S. Anargyros, a corporation existing

under the laws of the State of New York, engaged in the manufacture of cigarettes;

All the stock of Luhrman & Wilbern Tobacco Company, a corporation of the State of New Jersey, engaged in the manufacture of scrap tobacco;

All the stock of Federal Cigar Company, a New Jersey corporation, engaged in the manufacture of cigars;

Philadelphia Branch B at Philadelphia; Wilmington Branch B at Wilmington; Penn Street Branch at Brooklyn; Danville Branch B at Danville, Virginia; and Ellis Branch B at Baltimore; all branches of The American Tobacco Company, engaged in the manufacture of little cigars, the principal brand being "BETWEEN THE ACTS";

Each of the foregoing properties is conveyed as a going concern;

With proper and adequate storage houses, leaf tobacco, and other materials and supplies, provision for book accounts, and a proportion of the cash held by The American Tobacco Company on December 31st, 1910, proportionate to the businesses and properties conveyed.

It is the purpose of this conveyance to convey to the said P. Lorillard Company in book value as carried on the books of The American Tobacco Company, tangible property useful in the tobacco business, including storage houses, leaf tobacco, supplies and materials and cash, and stocks of other companies of the value of Twenty-eight Million Ninety-one Thousand Seven Hundred Forty-eight Dollars and Eighty-six Cents (\$28,091,748.86), and Vendor covenants and agrees to deliver the certificates of stock endorsed to the P. Lorillard Company, the said Vendee, or as it may direct, and to execute further deeds, bills of sale, assignments and conveyances as at any time or from time to time hereafter the Vendee may reasonably request as necessary to fully vest said title.

And Vendor, for the consideration aforesaid, covenants

that it will warrant and defend said title against all claims and demands of every person whomsoever, it being understood that the Vendee takes this conveyance and all conveyances, transfers, assignments and deliveries subject to the unexecuted part or parts of all contracts that have application to the factories, plants, brands and businesses conveyed, so that they might be said to run with them, or not being carried out by the owner of the given factory, plant or business, to give the other party to the contract a claim for damages against the Vendor, and hereby indemnifies The American Tobacco Company against any claim on account thereof.

IN WITNESS WHEREOF, the Vendor has caused its corporate name to be hereto subscribed, and its corporate seal to be hereto affixed and attested by officers duly authorized so to do.

THE AMERICAN TOBACCO COMPANY.

(SEAL)

By PERCIVAL S. HILL, President.

Attest:

J. T. WILCOX, Secretary.

State of New York, County of New York, ss.

On this first day of December, 1911, before me personally came Percival S. Hill, to me known, who being by me duly sworn, did depose and say, that he resides in New York City, New York; that he is the Vice-President of The American Tobacco Company, the corporation described in and which executed the above instrument; that he knew the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

R. J. BOYLAN,
Notary Public.

I, G. T. Minnigerode hereby certify that I am the Secretary of P. Lorillard Company, Inc., a corporation created under the laws of the State of New Jersey and Custodian of its records; that the foregoing indenture is a true and complete copy of the original thereof, which said original is in my possession.

Given under my hand and seal of said company this 19th day of December, 1924.

G. T. MINNIGERODE,
Secretary.

(SEAL)

Sworn and subscribed to before me this 19th day of December, 1924.

S. E. SPENCE,
*Notary Public, New York Co., No. 425.
New York Register No. 5085.*

(SEAL)

(Endorsed.)

ASSIGNMENT OF
BUSINESS

THE AMERICAN TOBACCO CO.
TO
P. LORILLARD CO.

Dated: Dec. 1st, 1911.

DEFENDANT'S EXHIBIT NO. 37—PACKAGE OF
BAGLEY'S "HAZEL NUT" TOBACCO.



DEFENDANT'S EXHIBIT NO. 45—LORILLARD SPECIMEN
WRAPPER DESIGN FOR BEECH-NUT CIGARETTES.



Part IV.**P. LORILLARD COMPANY EXHIBITS**

**In United States Patent Office Trade-Mark Opposition
No. 2805, P. Lorillard Company vs. Beech-Nut
Packing Company.**

[Incorporated by stipulation as a part of the record
herein (Transcript, Vol. I, p. 871).]



**P. LORILLARD EXHIBIT NO. 1—STATEMENT OF
SALES OF BEECH-NUT TOBACCO PRODUCTS
BY LUHRMAN & WILBERN TOBACCO COMPANY
AND P. LORILLARD CO. FROM 1904 TO 1919.**

MIDDLETOWN BRANCH, P. LORILLARD COM-
PANY.

STATEMENT OF "BEECH NUT" SCRAP MANUFACTURED AND
SHIPPED

"1904"	<i>Manufactured</i>	<i>Shipped</i>
January	1250	1200
February	—	—
March	1960-15	1800
April	814- 1	1025
May	800	800
June	800-15	800-15
July	200- 5	200- 5
August	2150	2150
September	1350	1350
October	1000	900
November	150	250
December	300	300

"1905"		
January	500	500
February	475	475
March	210	210
April	200	200
May	650	650
June	300	300
July	850	850
August	300	300
September	400	400
October	420	420
November	600	497- 3
December	225	327-13

"1906"

January	200	200
February	525	525
March	400	400
April	300	300
May	400	400
June	25	25
July	200	200
August	500	500
September	300	300
October	300	300
November	325	325
December	125	125

"1907"

January	400	400
February	—	—
March	400	400
April	525	525
May	125	125
June	300	300
July	225	225
August	—	—
September	130	130
October	200	200
November	100	100
December	200	200

"1908"

January	400	400
February	—	—
March	—	—
April	—	—
May	100	100
June	—	—
July	—	—
August	25	25
September	—	—
October	300	300
November	100	100
December	100	100

"1909"

January	—	—
February	—	—
March	200	200
April	—	—
May	—	—
June	100	100
July	125	125
August	—	—
September	—	—
October	—	—
November	—	—
December	—	—

"1910"

January	—	—
February	—	—
March	—	—
April	25	25
May	—	—
June	—	—
July	—	—
August	—	—
September	—	—
October	—	—
November	—	—
December	—	—

"1911" None

"1912" None

"1913" None

"1914" None

"1915"

January	—	—
February	14720- 7½	11251-11½
March	50885	49353- 7
April	309161- 9	296673-12
May	589443- 9½	596956-11½
June	768207-13	746806-14
July	1073073- 7	1062765
August	651914- 1¼	688985- 7½
September	713090-15¾	806894- 6
October	1042167- 6	1053655- 2¾
November	1034236- 8¾	1035380- 6¼
December	1115694-13½	1029055- 3½

"1916"

January	1007550- 3	1079725-11
February	1021429- 2	1018382- 1
March	1335668	1343017-10
April	1264470- $7\frac{1}{2}$	1231666-14
May	1290522- $\frac{3}{4}$	1325275- $8\frac{3}{4}$
June	1212898- $14\frac{3}{4}$	1199746- $4\frac{1}{4}$
July	1449981- $1\frac{1}{4}$	1446125- $15\frac{3}{4}$
August	1688961- $10\frac{1}{2}$	1688371- $9\frac{1}{2}$
September	1457303- $11\frac{1}{2}$	1478014- $6\frac{1}{2}$
October	1572224- 7	1574509- 1
November	1438814- $2\frac{3}{4}$	1425644- $10\frac{3}{4}$
December	1467044-12	1485590-14

"1917"

January	1607050- 1	1580759-12
February	1624617- $1\frac{3}{4}$	1637521-12
March	1867594- $12\frac{1}{2}$	1491763- $12\frac{1}{4}$
April	1180203- $15\frac{1}{2}$	1444834- 2
May	1064526- $13\frac{3}{4}$	1081891- $2\frac{3}{4}$
June	1556537	1495414- 8
July	1426579- $5\frac{1}{2}$	1466712- $\frac{1}{2}$
August	2568842-10	2459672- 7
September	1896577- $14\frac{1}{2}$	1997955- $7\frac{1}{2}$
October	2115929- $1\frac{1}{2}$	2109208- $8\frac{1}{2}$
November	1572090- $2\frac{1}{2}$	1599131- $15\frac{1}{2}$
December	1678775-10	1531816- $11\frac{1}{2}$

"1918"

January	1127283- 9½	918236- 4
February	1882759- 1¼	2103950-12¼
March	2162745- 6¾	2037787- 2¾
April	2592644- 5½	2197612- 6½
May	1441968- 7½	1828721-13
June	1514477-13¾	1355845-13¼
July	1287322- 5	1518517- 2
August	1362235-14¼	1564699-14¼
September	1202413-14¾	1203866-13¾
October	1410611-10	1402560- 6¾
November	1371557-10¾	1364299-14
December	1679579- 7	1640674- 2

"1919"

January	2072387- 4	2043954- 9
February	2275585-14	2300512-14
March	2364108- 4	2340144- 4
April	2027236	1913614
May	1599027-10	1623405-10
June	1612712-13¾	1737767-13¾
July	1983683- 1¾	1953166- 5¾
August	2069723-12¾	2118789- 8¾
September	2144352-12¾	2090899- 8¾
October	2166714- 4½	2192269-12½
November	2289646- 4¼	2329451- ¼
December	2798669-10¾	2628866-10¾

**P. LORILLARD CO. EXHIBIT NO. 2—PACKAGE OF
LORILLARD'S BEECH-NUT SCRAP TOBACCO.**

[NOTE: Identical with Defendant's Cross Exhibit
No. 1—which see, *supra*, p. 161.]

P. LORILLARD CO. EXHIBIT NO. 5—LUHRMAN &
WILBERN "BEECHNUT" TOBACCO BAG.



Factory No. 6, First District, State of Ohio.

NOTICE.—The manufacturer of this Tobacco has complied with all the requirements of Law. Every person is cautioned under the penalties of the law, not to use this package for Tobacco again.

2972
264

WILLIAM HENRY HARRIS
TO THE HONORABLE SENATE
OF THE UNITED STATES
IN SENATE, FEBRUARY 1, 1874.



RECEIVED

**P. LORILLARD CO. EXHIBIT NO. 6—PACKAGE OF
LORILLARD'S BEECH-NUT CIGARETTES.**

[NOTE: Photograph of the wrapper:]



2974

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**P. LORILLARD EXHIBIT NO. 7—LETTER DATED
AUGUST 25, 1916, FROM WALCUTT BROTHERS
COMPANY TO P. LORILLARD CO.**

LEXINGTON BUILDING

TELEPHONE MADISON SQUARE 3714-5-6

WALCUTT BROTHERS COMPANY

Embossing Specialists

Hot Pressing, Stamping, Color Printing

Paper, Cloth and Leather Covers

141-155 East 25th Street

CHICAGO OFFICE

1138-39-40 Unity Building

NEW YORK August 25, 1916.

P. LORILLARD Co.,
119 West 40th St.,
New York, N. Y.

Dear Sirs:

We will be pleased to furnish you with one million Beechnut Cigarette shells to be printed in three colors and embossed, as per sketch submitted for your O. K., size and specifications to be about $2\frac{7}{8} \times 5\frac{7}{16}$, printed, cut and scored on 13 pt. stock, but not to include the making of the shell, as we are not equipped for this kind of work, and if it is possible for you to have this part of the work attended to, we furnishing you with the printed, cut and scored sheets, the first million will cost \$1.67 per thousand. Two million will cost \$1.45 per thousand.

Hoping to be favored with your valued order, we are,

Yours very truly,

AAS/B

WALCUTT BROTHERS Co.

**P. LORILLARD CO. EXHIBIT NO. 8—ORDER FOR
BEECH NUT CIGARETTE SHELLS.**

SUPPLY DEPT. ORDER NO.

No. 1721

9/14/16

SUPPLY DEPARTMENT

P. LORILLARD COMPANY

Incorporated

119 West 40th St., New York, N. Y.

Please ship us by (freight or express)
the following:

1000 ~~M~~ Beech Nut 10 ³/₁₁ shells as per sample sub-
mitted & approved @ \$1.18 per ~~M~~.

Delivery in 5 to 6 weeks.

Amount used past six months Am't on hand

Will last until

Yours truly,


CIGARETTE DEPT.

P. LORILLARD Co.

By J R HILL

Manager

OK WJB 9/14/16 O.K. C. C. G.

 Do not include more than one kind of wrap-
ping or casing material on each order. Can use
entire blank for repair and renewal supplies.

**P. LORILLARD EXHIBIT NO. 9—"BROECKER"
CORRESPONDENCE.**

May 27, 1915.

THE BROECKER TOBACCO COMPANY,
New Albany, Indiana.

Dear Sirs:

Our attention has just been called to the statement in the "Western Tobacco Journal" of May 24th, 1915, that you have registered in the Western Tobacco Journal Registration Bureau the name of "BEECH NUT" for twist tobacco.

We are writing to call your attention to the fact that this Company and its predecessors in interest have for many years past, and still are manufacturing tobacco under the name of "BEECHNUT."

We therefore request that you refrain from using this name, and will be obliged if you will write us that you will do so.

Very truly yours,
ALFRED W. HAYWOOD, JR.

June 10, 1915.

THE BROECKER TOBACCO COMPANY,
New Albany, Indiana.

Dear Sirs:

I wrote you under date of May 27th, with reference to the statement appearing in the "Western Tobacco Journal" of May 24th, 1915, that you had registered in the Western Tobacco Journal Registration Bureau the name of "BEECH NUT" for twist tobacco.

I called your attention to the fact that this Company and its predecessors in interest had for many years past and still are manufacturing tobacco under the name

"BEECHNUT," and requested that you refrain from using this name, and asked that you write us that you would do so.

I have not yet heard from you in reply, and would be obliged if you would write me in accordance with my request.

Very truly yours,
ALFRED W. HAYWOOD, JR.

June 19, 1915.

THE BROECKER TOBACCO COMPANY,
New Albany, Indiana.

Dear Sirs:

I wrote you under date of May 27th, and also under date of June 10th, with reference to your registration in the Western Tobacco Journal Registration Bureau of the name "BEECH NUT" for twist tobacco. I enclose copies of both of these letters herewith.

I have not yet received a reply from you and will be very much obliged if you will write me as requested at once.

Very truly yours,
ALFRED W. HAYWOOD, JR.

Enclosures.

THE BROECKER TOBACCO CO.

309-311 West Sixth St.

NEW ALBANY, IND.

Manufacturers of
Twist and
Smoking Tobacco.

MR. ALFRED W. HAYWOOD JR.

New York N. Y.

Dear Sir:

We are receipt of your favors of May 27, June 10 & June 19 respecting your claim to the name "Beechnut" for twist tobacco, requesting that we refrain from the use of same. That is sufficient.

Yours Respectfully,

THE BROECKER TOB. Co.

per F. J. B.

July 14, 1915.

THE BROECKER TOBACCO COMPANY,

309 West Sixth Street,

New Albany, Indiana.

Dear Sirs:

I have received your recent favor, undated, reading as follows:

"We are receipt of your favors of May 27, June 10 & June 19 respecting your claim to the name 'Beechnut' for twist tobacco, requesting that we refrain from the use of same. That is sufficient,"

and I thank you for the same.

I understand from your letter that you will refrain from using the name "BEECHNUT" for tobacco, and will be obliged if you will write me that my understanding is correct.

Very truly yours,

ALFRED W. HAYWOOD, JR.

**P. LORILLARD EXHIBIT NO. 10—"SCHUTZ"
CORRESPONDENCE.**

October 1, 1915.

C. E. SCHUTZ, Esq.,
Evansville, Indiana.

Dear Sir:

I wrote you under date of September 16th, with reference to the "BEECH-NUT" twist tobacco which you have been making, but have not yet heard from you.

This is a matter of considerable importance to us, and I would be obliged if you would write me that you will discontinue using this name in view of our prior rights.

Very truly yours,
ALFRED W. HAYWOOD, JR.

TELEPHONE 592

615 MAIN STREET

C. E. SCHUTZ
Jobber in
Cigars and Tobacco
Pipes Snuff
Cigarettes

EVANSVILLE, IND. Oct. 9, '15.

P. LORILLARD Co.,
New York City, N. Y.

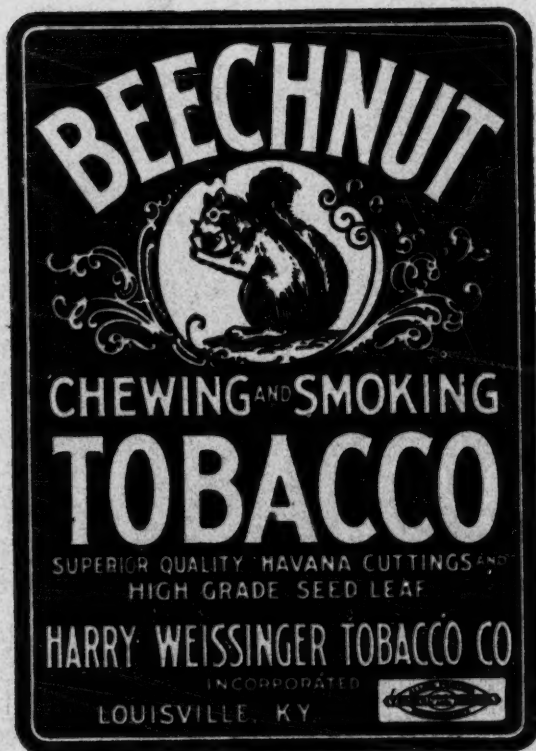
Dear Sirs:

In reply to your letter of Oct. 1st in regards to the Beech-Nut twist tobacco, wish to say we have discontinued the manufacture of this tobacco and will not have any more for sale after we have sold what we have on hand.

We would have replied sooner but have been moving to a new location.

Respectfully,
C. E. SCHUTZ.

P. LORILLARD EXHIBIT NO. 14—HARRY WEISSINGER TOBACCO CO. "BEECHNUT" TOBACCO BAG.



Factory No. 28, Fifth District of Kentucky.

NOTICE.—The manufacturers of this Tobacco have complied with all the requirements of law. Every person is cautioned, under the penalties of the law, not to use this package for Tobacco again

**P. LORILLARD EXHIBIT NO. 16—PACKAGE OF
LORILLARD'S BEECH-NUT SCRAP TOBACCO.**

NOTE: Identical with Defendant's Cross-Exhibit No. 1—which see, *supra*, p. 161.

**P. LORILLARD CO. EXHIBIT NO. 17—PACKAGE OF
LUHRMANN & WILBERN TOBACCO CO.'S
"BEECHNUT" TOBACCO.**

NOTE: The wrapper of this Exhibit package is identical with P. Lorillard Co. Exhibit No. 5—which see, *supra*, p. 243.

**P. LORILLARD CROSS-EXHIBIT NO. 20—CERTI-
FIED COPY, CERTIFICATE OF INCORPORATION
OF IMPERIAL PACKING COMPANY.**

IMPERIAL PACKING COMPANY

We the undersigned do hereby certify:

That we have associated ourselves together as a manufacturing corporation pursuant to the provisions of chapter 40 of the laws of 1848 of the State of New York, and the several acts amendatory thereof and supplementary thereto:

That the corporate name of said corporation is Imperial Packing Company:

That the time of existence of said corporation is to be ten (10) years:

That the object for which said corporation is formed is the smoking, curing and packing of hams, bacon and beef:

That the amount of capital stock of said corporation is Ten Thousand Dollars:

That the number of shares of which the capital stock of said corporation shall consist is one hundred of one hundred dollars each:

That the number of trustees of said corporation is three (3) and that the following are the names of the trustees who are to manage the concerns of the said corporation for the first year: David Zieley, Jr., Bartlett Arkell and Walter H. Lipe: who are respectively stockholders in said corporation, and all of whom are residents of the State of New York:

That the operations of said corporation are to be carried on at the village and town of Canajoharie, Montgomery County, New York.

Dated January 31st, 1891

DAVID ZIELEY JR
BARTLETT ARKELL
WALTER H LIPE
JOHN W ZIELEY

State of New York County of Montgomery ss

On this thirty-first day of January, 1891, before me personally appeared David Zieley, Jr., Bartlett Arkell, Walter H. Lipe and John W. Zieley, to me known to be the same persons described in and who executed the foregoing instrument, and severally acknowledged that they executed the same.

HIRAM L. HUSTON
Notary Public Mont. Co.

[Endorsed]

IMPERIAL PACKING COMPANY

CERTIFICATE OF INCORPORATION

Tax for privilege of organization of this corporation

$$\begin{array}{r} \$12 \quad 50 \\ \hline 100 \end{array}$$

Under Chapter 143, Laws of 1886,
Paid to State Treasurer before Filing.

STATE OF NEW YORK

Office of SECRETARY OF STATE

Filed and recorded Feb 10 1891

TH E BENEDICT

Deputy Secretary of State

State of New York, Office of the Secretary of State. ss:

I have compared the preceding with the original Certificate of Incorporation of Imperial Packing Company filed and recorded in this office on the 10th day of February, 1891, and do hereby certify the same to be a correct transcript therefrom and of the whole of said original.

Witness my hand and the seal of office of the Secretary of State, at the City of Albany, this twelfth day of April, one thousand nine hundred and twenty.

E. W. TAFT,

[SEAL]

Second Deputy, Secretary of State.

UNITED STATES PATENT OFFICE.

IMPERIAL PACKING COMPANY, OF CANAJOHARIE AND NEW-YORK, N. Y.

TRADE-MARK FOR HAMS AND BACON.

STATEMENT and DECLARATION of Trade-Mark No. 19,838, registered July 7, 1891.

Application filed June 9, 1891.

STATEMENT.

To all whom it may concern:

Be it known that the IMPERIAL PACKING COMPANY, a corporation organized under and by virtue of the laws of the State of New York, and located at Canajoharie, in the county of Montgomery, in said State, and doing business at Canajoharie and at New York city, New York, has adopted for its use a Trade-Mark for Hams and Bacon, of which the following is a full, clear, and exact specification.

The trade-mark of said company consists of the word-symbol "Beech-Nut." This has generally been arranged as shown in the accompanying fac-simile, which represents a ham upon a frescoed panel. Upon the ham appears the word symbol "Beech-Nut" and underneath it a representation of the leaf of the beech-tree. Across the upper portion of the panel appear the words "The Sweet Beech Nut Ham," and across the bottom of the panel are the words "The Imperial Packing Company, Canajoharie, N. Y.;" but these words, with the exception of the word "Beech-Nut," may be omitted, and the various accessories

of the picture may be varied or altogether omitted without materially altering the character of the said trade-mark, the essential feature of which is the word "BEECH-NUT."

This trade-mark has been continuously used by said corporation since the 1st of January, 1891.

The class of merchandise to which the trade-mark is appropriated is cured pork, and the particular description of goods comprised in such class on which it is used by said company is hams and bacon.

It has been the practice of the company to brand the trade-mark upon each article of its production. It may, however, be branded upon the boxes, barrels, or casks in which the goods are packed, or it may be applied to the goods or packages in the form of a label.

IMPERIAL PACKING COMPANY.
By BARTLETT ARKELL,
President.

Witnesses:

GEORGE H. BENJAMIN,
F. K. BUDD.

DECLARATION.

City, county, and State of New York, ss:

BARTLETT ARKELL, being duly sworn, deposes and says that he is the president of the IMPERIAL PACKING COMPANY, of Canajoharie, New York, a corporation, the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that the said corporation has at this time a right to the use of the trade-mark therein described; that no other person, firm, or corporation has a right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive;

that the trade-mark is used by said corporation in commerce between the United States and foreign nations, and particularly with Great Britain, Germany, and Canada, and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

BARTLETT ARKELL.

Sworn to and subscribed before me this 23d day of April, 1891.

[L. s.] THOMAS M. ROWLETTE,
Notary Public, New York County.

TRADE-MARK.

IMPERIAL PACKING COMPANY.

HAMS AND BACON.

No. 19,838.

Registered July 7, 1891.



WITNESSES:

Millard L. Stillman
E. W. Cady

INVENTOR

Imperial Packing Company
BY *Wm. H. Benjamin*
ATTORNEY.

Renewed to
Beech-Nut Packing Company, a corporation of New York.

UNITED STATES PATENT OFFICE.

IMPERIAL PACKING COMPANY, OF CANAJOHARIE AND NEW YORK, N. Y.,
AND CHICAGO, ILLINOIS.

TRADE-MARK FOR PORK LARD.

STATEMENT and DECLARATION of Trade-Mark No. 24,978, registered July 3, 1894.

Application filed June 6, 1894.

STATEMENT.

To all whom it may concern:

Be it known that the IMPERIAL PACKING COMPANY, a corporation organized under and by virtue of the laws of the State of New York, and located in the village of Canajoharie, in the county of Montgomery, in said State, and doing business in said village of Canajoharie, and also at the city of New York, in said State, and at the city of Chicago, in the county of Cook, in the State of Illinois, has adopted for its use a Trade-Mark for Lard, of which the following is a full, clear, and exact specification.

The trademark of said company consists of a representation of a leaf of the beech tree and the word-symbol "Beech Nut." These have generally been arranged as shown in the accompanying fac-simile, consisting of an oblong card in the lower left-hand corner of which is a representation of the leaf of the beech tree resting on an oval, and above and to the right of the oval appear the words "Beech Nut' Lard. Imperial Packing Co., Canajoharie, N. Y." But these words, with the exception of the word "Beech Nut," may be omitted, and the various accessories of the

picture may be varied at pleasure, or omitted altogether, without materially altering the character of the said trademark, the essential features of which are the words "BEECH NUT," and the representation of the leaf of the beech tree.

This trademark has been continuously used by said corporation since the 1st day of March, 1894.

The class of merchandise to which the trademark is appropriated is pork, and the particular description of goods comprised in such class on which it is used by said company is pork lard.

It has been the practice of the company to apply the trademark to the barrels, casks or cases in which the lard is packed, in the form of a label. It may however be branded upon the barrels or casks or cases in which the lard is packed.

IMPERIAL PACKING COMPANY,
By BARTLETT ARKELL,
President.

Witnesses:

WILLIAM J. MERRILL,
F. J. GALVIN.

DECLARATION.

City, county and State of New York, ss.

BARTLETT ARKELL, being duly sworn, deposes and says that he is the president of the IMPERIAL PACKING COMPANY of Canajoharie, New York, a corporation, the applicant named in the foregoing statement, that he verily believes that the foregoing statement is true; that the said corporation has at this time a right to the use of the trademark therein described; that no other person, firm or corporation has a right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to

deceive; that the trademark is used by said corporation in commerce between the United States and foreign nations, and particularly with Great Britain, Germany, Canada and the Island of Cuba, and that the description and fac-similes presented for record truly represent the trademark sought to be registered.

BARTLETT ARKELL.

Sworn to and subscribed before me, a notary public, this 18th day of May, 1894.

[L. S.] FREDK. J. WINSTON,
Notary Public, (No. 226,) N. Y. County.

TRADE-MARK.

—
 IMPERIAL PACKING COMPANY.
 PORK LARD.

No. 24,978.

Registered July 3, 1894.



Witnessed
Rich. J. Winston
George A. Lusk

Proprietor
Imperial Packing Company,
Barrett & Sons, President.

UNITED STATES PATENT OFFICE.

BEECH-NUT PACKING COMPANY, OF CANAJOHARIE AND NEW YORK, N. Y.

TRADE-MARK FOR CURED, DRIED, AND SMOKED BEEF.

STATEMENT and DECLARATION of Trade-Mark No. 35,731, registered January 8, 1901.

Application filed December 13, 1900.

STATEMENT.

To all whom it may concern:

Be it known that the BEECH-NUT PACKING COMPANY, (successor to the Imperial Packing Company,) a corporation organized under and by virtue of the laws of the State of New York, and located at Canajoharie, in the county of Montgomery, in said State, and doing business at said place and also at New York city, in said State, has adopted for its use a Trade-Mark for Cured Meats, of which the following is a full, clear, and exact specification.

The trade-mark of said company consists of the word-symbol "Beech-Nut." This has generally been arranged as shown in the accompanying facsimile, which represents the fruit and leaves of the beech-nut tree. This is inclosed in a circle, and adjacent to the design appears the word-symbol "Beech-Nut." The circle may be omitted and the design of the beech-nut and its leaves may be omitted or may be varied without materially altering the character of said trade-mark, the essential feature of which is the word-symbol "BEECH-NUT."

This trade-mark has been continuously used by said corporation and the corporation of which it is successor since the 1st of June, 1893.

The class of merchandise to which the trade-mark is appropriated is cured meats, and the particular description of goods comprised in such class on which it is used by said corporation is cured, dried, and smoked beef.

It has been the practice of the company to brand the trade-mark upon each article of its production or upon the receptacles containing such articles—that is, upon the jars, boxes, barrels, or other packages in which the goods are packed—or it may be applied to the goods or packages in the form of a label.

BEECH-NUT PACKING CO.,
By BARTLETT ARKELL,
President.

Witnesses:

F. E. DOUBLEDAY,
J. WANKERL.

DECLARATION.

Town of Canajoharie, county of Montgomery, State of New York, ss:

BARTLETT ARKELL, being duly sworn, deposes and says: that he is the president of the BEECH-NUT PACKING COMPANY of Canajoharie, New York, a corporation, the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that said corporation has at this time a right to the use of the trade-mark therein described; that no other person, firm or corporation has a right to such use, either in the identical form or in any such manner or resemblance thereto as might be calculated to

deceive; that the trade-mark is used by said corporation in commerce between the United States and foreign nations, and particularly with colonies of South Africa; and that the description and facsimile presented for record truly represent the trade-mark sought to be registered.

BARTLETT ARKELL.

Sworn to and subscribed this 4th day of December, 1900.

[L. S.] NORMAN J. BRUMLEY,
Notary Public.

TRADE-MARK.

No. 35,731.

Registered Jan. 8, 1901.

**BEECH-NUT PACKING COMPANY.
CURED, DRIED, AND SMOKED BEEF.**

(Application filed Dec. 13, 1900.)

**Witnesses:***Geo. M. Hunt*
*Chas. D. Fehmel***Proprietor:***Beech-Nut Packing Company*
per William A. Lorenz
Attorney

UNITED STATES PATENT OFFICE.

BEECH-NUT PACKING COMPANY, OF CANAJOHARIE, NEW YORK.

TRADE-MARK FOR CANNED GOODS.

STATEMENT and DECLARATION of Trade-Mark No. 36,444, registered May 21, 1901.

Application filed April 29, 1901.

STATEMENT.

To all whom it may concern:

Be it known that the BEECH-NUT PACKING COMPANY, a corporation duly organized under the laws of the State of New York, and located and doing business at Canajoharie, county of Montgomery, in said State, has adopted for its use a Trade-Mark for Canned Goods, of which the following is a full, clear, and exact description.

The said trade-mark consists of the word-symbol "Beech-Nut." This has generally been arranged, as shown in the accompanying facsimile, in connection with the representation of a beech-nut and some leaves of the beech-tree. Different styles of letters may be employed for the word-symbol and the design of the beech-nut and leaves may be varied or omitted altogether without materially altering the character of the trade-mark, the essential feature of which is the word-symbol "BEECH-NUT."

This trade-mark has been continuously used in the business of the said corporation and of its predecessors since June 1, 1893, and in connection with canned goods since May 18, 1898.

The class of merchandise to which this trade-mark is appropriated is groceries, and the particular description of goods comprised in the said class upon which it is used is canned goods. It is usually displayed on the cans, jars, boxes, and other packages containing the goods by placing thereon a printed label on which the described trade-mark is shown.

[L. S.] BEECH-NUT PACKING COMPANY,
By BARTLETT ARKELL,
President.

Witnesses:
NORMAN J. BRUMLEY,
J. H. COOK.

DECLARATION.

State of New York, county of Montgomery, ss:

BARTLETT ARKELL being duly sworn, deposes and says that he is the president of the corporation BEECH-NUT PACKING COMPANY, the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true, that said corporation has at this time a right to the use of the trade-mark therein described, and that no other person, firm or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that the said trade-mark is

used by the said corporation in commerce between the United States and foreign countries, and particularly with Canada, Mexico, France and Sierra Leone, and that the description and facsimile presented for record, truly represent the trade-mark sought to be registered.

BARTLETT ARKELL.

Sworn to and subscribed before me, a notary public, this 26th day of April, 1901.

[L. S.] J. H. COOK,
Notary Public.

2996

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TRADE-MARK.

No. 36,444.

Registered May 21, 1901.

BEECH-NUT PACKING COMPANY.

CANNED GOODS.

(Application filed Apr. 20, 1901.)



Witnesses:

William A. Lorenz
H. Mallon

Proprietor

Beech-Nut Packing Company

By *W. H. H. H. H. H.* Att'y.

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P. LORILLARD CO. CROSS EXHIBIT NO. 22 —

Proposed BEECH-NUT PACKING COMPANY'S "BEECH-NUT CIGARETTES" LABEL.



THE UNIVERSITY OF CHICAGO
LIBRARY
540 EAST 57TH STREET
CHICAGO, ILL. 60637

Beech Nut 256 256 us 800 lbs

Page 95. June 1904

Beech Nut 800 lbs

Beech Nut	20	32 Sheets	32 us	100 lbs
Beech Nut	16	32 Sheets	32 us	100 lbs
Beech Nut	14	96 Sheets	96 us	300 lbs
Beech Nut	9	32 Sheets	32 us	100 lbs
Beech Nut	2	64 Sheets	64 us	200 lbs

 Total 800 lbs

Page 96. July 1904.

Beech Nut 200 lbs

Beech Nut Samples 5 oz

Beech Nut	20	32 Sheets	32 us	100 lbs
	26	32 Sheets	32 us	100 lbs

 200 lbs

Page 98. July 1904.

16 1 - 2½ oz Beech Nut Sample 2½ oz

23 1 - 2½ oz Beech Nut Sample 2½ oz

 Beech Nut Samples 5 oz

Page 100. August 1904

Beech Nut 2149 - 13½ oz

	30	112	112 us	350 lbs.
	24	32	32 us	100 lbs
	23	64	64 us	200 lbs
	19	96	96 us	300 lbs
	18	63 Sheets 19 st us	63 S19st us	199 lbs 13½ oz
	15	64	64 us	200 lbs
	12	96	96 us	300 lbs
Beech Nut	8	160 Sheets	160 us	500 lbs

 2149 lbs 13½ oz

Page 102. Sept 1904

Beech Nut	1350 lbs			
29	32 Sheets us			100 lbs
28	96 Sheets us			300 lbs
22	32 Sheets us			100 lbs
21	32 Sheets us			100 lbs
14	32 Sheets us			100 lbs
12	96 Sheets us			300 lbs
8	16 Sheets us			50 lbs
6	64 Sheets us			200 lbs
Beech Nut 3	32 Sheets us			100 lbs
Total				1350 lbs

Page 110. Oct 1904.

Beech Nut	1000 lbs			
26	32 Sheets us	32 us		100 lbs
25	64 Sheets us	64 us		200 lbs
13	32 Sheets us	32 us		100 lbs
10	32 Sheets us	32 us		100 lbs
8	32 Sheets us	32 us		100 lbs
7	32 Sheets us	32 us		100 lbs
Beech Nut 4	96 Sheets us	96 us		300 lbs
Total				1000 lbs

Page 112. Nov 1904

Beech Nut	150 lbs			
28	32 Sheets us	32 us		100 lbs
Beech Nut 3	16 Sheets us	16 us		50 lbs
Total				150 lbs

Page 116. Dec 1904

Beech Nut	300 lbs			
	16	32 -	32 us	100 lbs
Beech Nut	2	64 Sheets us	64 us	200 lbs
Total				300

Page 118. January 1905

Beech Nut	500 -			
	20	32 Sheets us	32 us	100 lbs
	17	32 Sheets us	32 us	100 lbs
	12	32 Sheets us	32 us	100 lbs
Beech Nut	11	64 Sheets us	64 us	200 lbs
Total				500 lbs

Page 122 February 1905

Beech Nut	470 -			
Beech Nut	27	64 Sheets us	64 us	200 lbs
	23	32 Sheets us	32 us	100 lbs
	17	32 Sheets us	32 us	100 lbs
	7	8 Sheets us	8 us	25 lbs
	2	16 Sheets us	16 us	50 lbs
Total				470 lbs

Page 125 March 1905

Beech Nut	210 -			
Beech Nut	18	35 Sheets 4 stamps us		110 lbs
	21	32 Sheets us		100 lbs
Total				210 lbs.

Page 128. April 1905

Beech Nut	18	32	Sheets	us	100	lbs
	28	32	"		100	lbs
					Total	200 lbs

Page 132. May 1905

Beech Nut			650 -
Beech Nut	5	48 us	150 lbs
	11	32 us	100 lbs
	23	128 us	400 lbs
			<hr/>
			Total 650 lbs

Page 134 June 1905

Beech Nut			300 -	
Beech Nut	10	32	Sheets us	100
	19	32	" "	100
	28	32	Sheets us	100
			Total	300 lbs

Page 138 July 1905

Beech Nut	850	-	
	Sheets received	Sheets used	lbs or
Beech Nut	10	160	500
	14	48	150
	24	32	100
	28	32	100
		Total	850 lbs

Page 144 Sept 1905Page 146 October 1905Page 150 November 1905

Beech Nut		600	—
	29	32	100
	28	32	100
	22	32	100
	18	32	100
	14	32	100
Beech Nut	13	32	100
		Total	600 lbs

Page 152 Dec 1905

Beech Nut 225

Beech Nut	13	8	Sheets	25
	27	32		100
	28	32		100

Total 225 lbs

Page 156 Jan 1906

Beech Nut 200

	Date	Sheets Received	Sheets used	Lbs. oz.
Beech Nut	4	32		100
	26	32		100

200

Page 158 Febr 1906

Beech Nut 525

	12	8	25
	9	32	100
	3	32	100
Beech Nut	2	32	100
	16	32	100
	26	32	100

Total 525 lbs

Page 162 March 1906

Beech Nut 400

3008

300

PATENT OFFICE LORILLARD EXHIBITS.

Page 164 March 1906

Beech Nut	5	32	100
	14	32	100
	27	32	100
	30	32	100
			<hr/>
Total			400 lbs

Page 165 April 1905

Beech Nut	6	32	100
	9	32	100
	24	32	100
			<hr/>
Total			300

Page 166 April 1906

Beech Nut	300	-	
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Page 170 May 1903

Beech Nut	400	-	
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Page 173 May 1906

Beech Nut	5	32	100
	10	64	200
	28	32	100
			<hr/>
Total			400

Page 174 June 1906

Beech Nut	25		
-----------	----	--	--

Page 177 June 1906

Beech Nut	18	8 Sheets	25
			Total 25

Page 180 July 1906

Beech Nut	200 -	
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Page 181 July 1906

Beech Nut	16	32	100
	25	32	100
			200 lbs

Page 187 August 1906

Beech Nut	1st	64	200
	2	32	100
	10	32	100
	20	32	100
			500 lbs

**P. LORILLARD CO. EXHIBIT B—BOOK SHOW-
ING REVENUE STAMPS USED ON TOBACCO
BRANDS, 1906-1910.**

(NOTE: The Exhibit is a three-hundred page "Day Book" of stamp records and weights for Polar Bear, Old Nut, Honest, Bag Pipe, Beechnut, Cutlass, Scrap Iron, Natural Leaf, etc. All entries are in lead pencil. Only the entries relating to Beechnut are here printed.)

Page 2. Sept 1906

Beech Nut	300	
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Page 5. Sept 1906

Beech Nut	1st	96	300
-----------	-----	----	-----

Page 6. Oct 196

Beech Nut	300
-----------	-----

Page 9. Oct 1906

Beech Nut	12	32	100
	16	32	100
	27	32	100
			<hr/> 300

Page 11 Nov 1906

	Date	Sheets received	Sheets used	Lbs. oz.
	23	32		100
	21	64		200
Beech Nut	6	8 Sheets		25
				<hr/> 325

Page 15. Nov 1906

Beech Nut	325
-----------	-----

Page 17. Dec 1906

2½ oz Beech Nut	125
-----------------	-----

Page 20 Dec 1906

Beech Nut	1st	8 Sheets	25
	12	32	100
			<hr/> 125

Page 27 Jan 1907

Beech Nut	400
-----------	-----

Page 29. Jan 1907

Beech Nut	3	32	32	100
	21	64	64	200
	29	32	32	100
				<hr/> 400

Page 39. March 1907

Beech Nut	400
-----------	-----

Page 40. March 1907

	Date	Sheets received	Sheets used	Lbs. oz.
Beech Nut	5	32	32	100
	9	32	32	100
	23	32	32	100
	29	32	32	100
				<hr/> 400

Page 46 Apr 1907

Beech Nut	4	40	40	125
	8	32	32	100
	11	32	32	100
	22	32	32	100
	29	32	32	100
				<hr/> 525

Page 49 April 1907

2½ oz Beech Nut	525
-----------------	-----

Page 55 May 1907

Beech Nut	13	8	8	25
	18	32	32	100
Total				125 lbs

Page 57 May 1907

2½ oz Beech Nut 125

Page 60. June 1907

Beech Nut	6	32	32	100
	24	64	64	200
				300

Page 63. June 1907

2½ oz Beech Nut 300

Page 65. July 1907

2½ oz Beech Nut 325

Page 66. July 1907

Beech Nut	10	8	8	25
	11	32	32	100
	26	32	32	100
				325 lbs

[NOTE: error in addition as in the original]

Page 75 August 1907

2½ oz Beech Nut

Page 78. Sept 1907

Beech Nut	5	9 - 12 st	9 - 12 st	30
	9	32	32	100
				<hr/>
				130

Page 81. Sept 1907

2½ oz Beech Nut	130			
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Page 84. Oct 1907

Beech Nut	7	32	32	100
	16	32	32	100
				<hr/>
				200

Page 87. Oct 1907

2½ oz Beech Nut	200			
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Page 90. Nov 1907

Beech Nut	25	32	32	100
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Page 93. Nov 1907

2½ oz Beech Nut	100			
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Page 96 Dec. 1907

Beech Nut	18	64	64	200
-----------	----	----	----	-----

3014

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PATENT OFFICE LORILLARD EXHIBITS.

Page 99 Dec 1907

2½ oz Beech Nut	200
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Page 102 Jan 1908

Beech Nut	20	32	32	100
	22	32	32	100
	27	64	64	200
				<hr/> 400 lbs

Page 105 Jan 1908

2½ oz Beech Nut	400
-----------------	-----

Page 114 March 1908

Beech Nut

Page 126. May 1908

2½ oz Beech Nut	15	32	32	100
-----------------	----	----	----	-----

Page 129 May 1908

2½ oz Beech Nut	100
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Page 144 Aug 1908

Beech Nut	17	8 Sheets	8	25
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Page 147 Aug 1908

2½ oz Beech Nut	25
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PATENT OFFICE LORILLARD EXHIBITS.

307

Page 156 Oct 1908

Beech Nut	1	32	32	100
	9	32	32	100
	26	32	32	100
				<hr/>
				300

Page 159 Oct 1908

2½ oz Beech Nut	300			
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Page 162 Nov 1908

Beech Nut	3	32	32	100
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Page 165 Nov 1908

2½ oz Beech Nut	100			
-----------------	-----	--	--	--

Page 168 Dec 1908

Beech Nut	7	32	32	100
-----------	---	----	----	-----

Page 171 Dec 1908

2½ oz Beech Nut	100			
-----------------	-----	--	--	--

Page 186 March 1909

Beech Nut	9	64	64	200
-----------	---	----	----	-----

Page 189 March 1909

2½ oz Beech Nut	200			
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✓ Page 195 April 1909

2½ oz Beech Nut

Page 197 May 1909

2½ oz Beech Nut

Page 203 June 1909

2½ oz Beech Nut

100

Page 204 June 1909

Beech Nut 23 32 32 100

Page 209 July 1909

2½ oz Beech Nut

125

Page 210 July 1909

Beech Nut 19 8 8 25
29 32 32 100

125

Page 228 Oct 1909

2½ oz Beech Nut

Page 234 Nov 1909

.
2½ oz Beech Nut
.

Page 242 Dec 1909

.
2½ oz Beech Nut
.

Page 248 Jan 1910

.
2½ oz Beech Nut
.

Page 256 Febr 1910

.
2½ oz Beech Nut
.

Page 260 March 1910

.
2 4-2 oz Beech Nut Samples to Mr. 4 8 oz
Hutchings with Bag Pipe tob
.

Page 261 March 1910

.
2½ oz Beech Nut 5 oz
.

Page 262 March 1910

.
2½ oz Beech Nut 12 2 st as sample Bag Pipe 2 st 5 oz
.

Page 269 April 1910

2½ oz Beech Nut 25

Page 270 April 1910

2½ oz Beech Nut 11 8 Sheets 8 25

Page 276 May 1910

2½ oz Beech Nut

Page 284 June 1910

2½ oz Beech Nut

P. LORILLARD CO. EXHIBIT C—SALES SHEETS SHOWING SHIPMENTS BEECHNUT, 1904-1910.

Sheet 1.

SALES 1901

	Polar Bear	Old Nut	Total
Sept.	325835-10		325835-10
Oct.	603197-2	63245	666442-2
Nov.	287550-10	23005	310555-10
Dec.	689189	24600	713789
Total	1905772-6	110850	2016622-6

SALES 1902

	Bag Pipe	Outlass	Total
Jan.			201231-4
Feb.	191520	4805	293612-13
March	280907-13	2850	543855
April	527390	1350	720420
May	705040	2100	377299-13
June	358704-1		826344-12
July	625327-8	104498	599891-4
Aug.	195281-4	94008	696521-2
Sept.	434201-4	81325-14	697589-4
Oct.	441833-4	169044	963559-6
Nov.	655873-10	176976	612681-15
Dec.	396785-15	64080	631709-3
Total	447349-3	23904	7164708-12

SALES 1903

	Bag Pipe	Outlass	Total
Jan.			402233-14
Feb.	344111-14	11856	751435-10
March	679885-10	18360	712492
April	602870	26520	672916
May	485705	149646	689848-9
June	477515	25200	903441-12
July	677763-12	183569-9	516560-8
Aug.	258577-8	166956	732563
Sept.	306250	32952	551287
Oct.	461075-8 ¹ / ₂	96105	627161-12
Nov.	419915	132025	584577-14
Dec.	470978-7	30100	429364-7 ¹ / ₂
Total	306705-9 ¹ / ₂	15525	7473882-15

Sheet 2.

SALES 1904

	Polar Bear	Old Nut	Bag Pipe	Cutlass	Beechnut	
Jan.	462040	23000	127566	12925	1200	626731
Feb.	374256-2	14582-13	90012	26100		504950-15
Mar.	414290	25275	113682	35425	1800	590462
April	514367-13	20357-13	150237-9	38500	1025	724488-3
May	498062-8	19211-4	149784	49700	800	717557-12
June	490002-7	24027-3	142969-2	27625	800-15	675424-11
July	481446-6½	23876-1½	135180	45750	200-5	686452-13
Aug.	484032-13	25275-10	126186	135750	2150	773384-7
Sept.	567555	25685	149928	30900	1350	775418
Oct.	502261-4	23851-6½	137662-5	26825	900	691499-15½
Nov.	481492-4	27910-10	153912-12	19100	250	682665-10
Dec.	471866-3½	25825-12½	144228-15	7625	300	649845-15
Total	5731662-15	278878-9½	1621348-11	456225	10776-4	8098891-5½

SALES 1905

	Polar Bear	Old Nut	Bag Pipe	Cutlass	Beechnut	
Jan.	570620-11	30750-10	137934-12	3350	500	743156-1
Feb.	527486-4	24611-4	135805-14	1650	475	690028-6
Mar.	579425-4½	27325-10	141954-12	2500	210	751415-10½
April	402197-3	24430-2½	151884-15	5775	200	584477-4½
May	400226-4	27190-10	172788-12	4025	650	604880-10
June	582692-11½	22846-6½	187153-14	8900	300	801893
July	565579-5	21655-10	203796-15	10825	850	802206-14
Aug.	559428-7	23021-9	187104-12	12250	300	782104-12
Sept.	552269-6	26379-8	191894-4	7675	400	778618-2
Oct.	558830-11 1/6	25262-9½	184679-12	5725	420	774918-5
Nov.	616030	20225-12½	181316-10	6550	497-3	824619-9½
Dec.	334628-5 5/6	20640-10½	116353-2	9000	327-13	509784-2½
Total	6278248-12	294330-6½	1992668-1	77725	5130	8648102-3½

SALES 1906

	Polar Bear	Old Nut	Honest	Bag Pipe	Cutlass	Beechnut	Col. Long Leaf
Jan.	681419-3	19856-6½	39937-3	219294-6	10825	200	931594-15½
Feb.	701145-1	16270-10	79594	252380-10	14925	525	985246-5
Mar.	954451-15	16410-12½	114537	293493-6	4825	400	1269581-1½
April	334869-2½	13980-7½	140524-½	136282-5	5800	300	491231-15
May	504184-4	17500-10	39937-3	165260-13	4650	400	731932-14
June	515853-7	21225-12½	79594	209338-5	8875	25	834941-8½
July	565116	16517-10	114537	251358-12	6725	200	954454-6
Aug.	541701-4	17690-10	168001-11½	294627-12	5850	500	1028371-5½
Sept.	598077-7	15984-12½	140524-½	285459-3	5100	300	1045445-7
Oct.	435210-11	17265-10	197579-6	338211-3	6900	300	995466-14
Nov.	447866-4	13565-10	216107-5½	296175-14	9750	325	983790-1½
Dec.	559287-1	15670-12½	359979-13½	283325-4½	3225	125	1191612-15½
Total	6819211-11½	201939-12	1316260-8	3015207-13½	87450	3600	11443669-13

1005
1005

SALES 1907

	Polar Bear	Old Nut	Honest	Outlass	Bag Pipe	Beech Nut	Hats Scrap	Col. Long Leaf	Total
Jan.	618399-2	14735-7½	216603-2	7200	271588-5	400		10798-10	1139724-10½
Feb.	497927-1	11705-10	265989-13½	4825	221920-2			39038-10	1041406-4½
Mch.	443331-4	16895-12½	342808-2	4800	175703-5½	400		28849-6	1012287-14
Apr.	592784 12½	18641-4	350452-8	5800	193562-8	525		2708-4	1074474-4½
May	592103-4	19040-10	518600-12½	3400	196010-15½	125		650-10	1259931-4
June	435982-2	14550-12½	377603-14½	3850	141070-10	300		125	973482-7
July	463848-10	16890-10	534132-8	6800	139791-9	225	30		1161718-5
Aug.	443177-8	16390-12½	480779-11	5400	133469-6				1079217-5½
Sept.	424691	14745-10	596782-8	4950	132629-1	130			1173928-3
Oct.	418813-4	12665-10	590002-8	6300	101849-6	200			1129830-12
Nov.	308913-4	12579-13½	425226-3	2100	84972-5½	100			828991-10
Dec.	330109-½	11250-10	591922-8	3350	64932-5½	200			1001764-8 1/6
Total	5405080-4½	180092-10½	5291004-2½	58275	1857499-15	2005	30	82170-8	12876757-8½

PATENT OFFICE LORILLARD EXHIBITS.

SALES 1908

	Polar Bear	Old Nut	Honest	Outlass	Bag Pipe	Beech Nut	
Jan.	343027-4	14640-10	663882-8	5925	87987-8	400	1015862-14
Feb.	286388-4	11190-12½	674405	1550	75407-13		1048941-13½
Mch.	320714	12580-10	757118-2	6775	68877-10		1166065-6
Apr.	350983-14	14360-10	825067-10½		68050		1258462-2½
May	336758-12	14190-12½	889204-8½		78105-12½	100	1318369-13½
June	383868	14985-10	1039265-7½		64868-3		1502987-4½
July	371636	17110-10	1038983-4½		71345-10		1499075-8½
Aug.	328195-2	13435-12½	1084591-9		58951-6½	25	1485198-14
Sept.	338357-8	15490-10	1088888-2		56035-2		1494271-6
Oct.	308174-4	11735-12½	1174020-7½		49066-4½	300	1543296-12½
Nov.	297459-8	13120-10	1103687-8		46860-10	100	1461218-4
Dec.	325824-2	12640-10	1199505-2½		42840-10	100	1578910-8½
Total	3984886-10	165483-2	11538619-6	14250	768396-9½	1025	16472660-11½

SALES 1909

	Polar Bear	Old Nut	Honest	Natural Leaf	Outlass	Bag Pipe	Beech Nut	Scrap Iron
Jan.	280877-2	14730-12½	1152395-15			39727-10½		1487731-8
Feb.	236597-4	9515-10	1079374-6			32185-15		1357673-3
Mch.	279438-8	17562-8	1278947-13			59204-11	200	1635413-8
Apr.	257785-2	10809-6	1270924-6			36127-3		1575646-1
May	284417-14	16599-6	1320388-14½			34466-3		1657735-2½
June	271104	14459-12½	1506448-2		1862-13	33233-10½	100	1828348-1½
July	288909-6	17189-6	1537019-13½		3002-14½	36160-3½	125	1881623-13
Aug.	275106	18844-15½	1553402-13		3330-6½	26895-8½		1877579-11½
Sept.	262951-4	19114-13	1426279-13½		4680-13½	56811-4		1769837-15 5/6
Oct.	250828-4	23130	1430323-2		6901-10½	17170-10		1728353-10½
Nov.	240634-14	19045-2½	1495858-7 5/6		4710-13½	22607-12		1847673-7½
Dec.	225877-12	29630-15	1510618-2		2551-7½	20680-15		1829304-1½
Total	3154527-6	210632-11	16561981-12½	29260-15		415312-10	425	20469921-10½

3021

3021

Sheet 4.

SALES 1910

	Polar Bear	Old Nut	Honest	Natural Leaf	Bag Pipe	Beech Nut	Scrap Iron
Jan.	237829-12	15177-6	1500370-7½	4620-13½	23752-4		1803006-5 5/6
Feb.	205130-8	1343-4	1278326-11½	4290-13½	18052-4		1534258-5/6
Mch.	234637-12	14106-4	1642021-14	4080-13½	21822-4		15793-2
Apr.	230334-12	15171-2	1512266-1½	4442-4	23461-9	25	1810899-12 1/6
May	260251-8	21087-3	1688776-6½	3076-2½	23051-4		2027996-2 5/6
June	255684-9½	19691-4	1894032-8	4020-10	26526-4		2231166-9½
July	207738-12	19719-11	1266214-13½	2820-1½	23716-9		1542675-13
Aug.	229524	21335-10	1768087-8	4739-6	19866-4		2077700-4
Sept.	234152	21360-4	1670575-1	4388-14	21062-4		1998088-15
Oct.	234559	17185-14½	1471471-14	4607-14½	2108-3		1792578-6½
Nov.	230256-4	14605-14	1439169-¼	3081-14	20087-8		1751392-4½
Dec.	226924-4	21398-14½	1400001-6¾	1804-1½	24934-13½		1702727-14¼
Total	2813013-7¾	212183-2½	18531313-12½	45773-12¾	270064-½	25	22214157-2¾

SALES 1911

	Polar Bear	Old Nut	Honest	Natural Leaf	Bag Pipe	Beech Nut	Scrap Iron
Jan.	232056	15974-14	1488784-14	2616-11	21542-9		35798-4
Feb.	215148	14420	1370246	2384-4½	17006-14		28897-6
Mch.	238270-14	17757-4½	1534152-12	3150-7	19185-5		1648102-8¼
Apr.	220420-6	17017-14½	1408625-¾	1071-8¾	18546-9		1842801-4½
May	250517-12	13956-10	1618278-2½	4057-15	17926-4		1695977-5
June	253184-14	18245-12	1658908-6	1921-15	20723-12		1931083-7¼
July	230811-12	16836-9½	1631870-2¾	1791-8¾	17662-13		1980082-3
Aug.	235074-6	17770-8	1521656-1	2551-15	17745		1928450-4
Sept.	231899-8	18192-10½	1522432-11¼	2016-8¾	18905-5		1823661-6
Oct.	236641-4	15865-8	1471153-2	1228-15	18123-12		1819490-1½
Nov.	205872-12	15947-14	1279380-2	1512-7	18776-4		1772091-5
Dec.	193985	16630-½	1210385-12¾	1350-¾	18714-1		29078-12
Total	2743882-8	198615-9½	17715943-2¾	25654-12¾	219258-7		343298-5

SALES 1912

	Tomahawk	Panhandle
Jan.	219820-12	14225
Feb.	190540-1	12256-4
Mch.	195567-4	13591-4
Apr.	50420-4	18322-8
May	42904-15½	17491-9
June	33229-1½	757-5
July	37327-1¼	1370-2¼
Aug.	44537-7	12593-2
Sept.	43887-9½	2557-13½
Oct.	44529-3	2008-3½
Nov.	16072-14	17855-5
Dec.	16072-14	11146-4
Total	2407460-9¼	1214599-13½

[Note: Sheets 5 and 6, "Sales 1913," show no "Beech Nut" entries.]

**P. LORILLARD CO. EXHIBIT D—MEMORANDUM
BOOK OF SHIPMENTS.**

[Note: Only those pages showing "Beech Nut" entries
are here printed.]

BEECHNUT.

	1904.	Ave
Jan	1200	
Feb	—	—
Mar	1800	67
Apr	1025	39
May	800 4825	
June	800-15/ 5625-15/	31
July	200-5/16 5826-4/16	8
Aug	2150 7976-4/	80
Sept	1350 9326-4/	54
Oct	900 10226	35
Nov	250 10476	10
Dec	300 10776	12
	1905.	
Jan	500	20
Feb	475 975	21

Mch	210 1185	8
Apr	200 1385	8
May	650 2035	26
June	300 2335	12
July	850 3185	34
Aug	300 3485	11
Sep	400 3885	16
Oct	420 4305	16
Nov	497-3/ 4802-3/	20
Dec	327-13/ 5130	13

BEECHNUT.

	1906.	
Jan	200	08
Feby	525 725	23
Mar	400 1125	15
Apr	300 1425	12
May	400 1825	15
Jun	25 1850	01

PATENT OFFICE LORILLARD EXHIBITS.

317

July	200 2050	08
Aug	500 2550	19
Sept.	300 2850	13
Oct	300 3150	11
Nov	325 3475	13
Dec	125 3600	05

1907.

BEECHNUT.

Jan	400	15
Feby	<hr/> 400	—
Mar	400 800	15
Apr	525 1325	20
May	125 1450	5
June	300 1750	12
	225 1975	9
	<hr/> 1975	
	130 2105	5

	200	7
	2305	
	100	4
	2405	
	200	8
	2605	
	1908.	
Jan	400	15
Feb	<hr/> 400	—
Mar	<hr/> 400	—
Apr	400	—
May	100 500	4
Jun	<hr/> 500	—
July	<hr/> 500	—
Aug	25 525	1
Sept	525	—
Oct	300 825	11
Nov	100 925	4
Dec	100 1025	4

1909.

BEECHNUT.

Jan	—	—
Feb	—	—
Mar	200 200	7
Apr	200	—
May	200	—
June	100 300	4
July	125 425	5
Aug	— 425	—
Sept	— 425	—
Oct	— 425	—
Nov	425	—
Dec	425	—

1910.

Jan	—	—
Feb	—	—
Mar	—	—
Apr	25 25	1

May	25	—
June	25	—
July	25	—
Aug	25	—
Sept	25	—
Oct	25	
Nov	25	
Dec	25	—

BEECH NUT 1915.

Jan		July	1062765 2763807-8
Feb	11251-11½ 11251-11½	Aug	688985-7½ 3452792-15½
Mar	49353-7 60605-2½	Sept	806894-6 4259687-5½
April	296673-12 357278-14½	Oct	1053655-2¾ 5313342-8¾
May	596956-11½ 954235-10	Nov	1035380-6¼ 6348722-14½
June	746806-14 1701042-8	Dec	1029055-3½ 7377778-2

BEECH NUT 1916.

Jan	1079725-11	July	1446125-15 $\frac{3}{4}$ 8643940- $\frac{3}{4}$
Feb	1018382-1 2098107-12	Aug	1688371-9 $\frac{1}{2}$ 10332311-10 $\frac{1}{4}$
Mar	1343017-10 3441125-6	Sept	1478014-6 $\frac{1}{2}$ 11810326- $\frac{3}{4}$
Apr	1231666-14 4672792-4	Oct	1574509-1 13384835-1 $\frac{3}{4}$
May	1325275-8 $\frac{3}{4}$ 5998067-12 $\frac{3}{4}$	Nov	1425644-10 $\frac{3}{4}$ 14810479-12 $\frac{1}{2}$
June	1199746-4 $\frac{1}{4}$ 7197814-1	Dec	1485590-14 16296070-10 $\frac{1}{2}$

BEECH NUT.

1917.

Jan	1580759-12	July	1466712- $\frac{1}{2}$ <hr/> 10198897-1 $\frac{1}{2}$
Feb	1637521-12 <hr/> 3218281-8	Aug	2459672-7 <hr/> 12658569-8 $\frac{1}{2}$
Mar.	1491763-12 $\frac{1}{4}$ <hr/> 4710045-4 $\frac{1}{4}$	Sept	1997955-7 $\frac{1}{2}$ <hr/> 14656525
Apr.	1444834-2 <hr/> 6154879-6 $\frac{1}{4}$	Oct	2109208-8 $\frac{1}{2}$ <hr/> 16755733-8 $\frac{1}{2}$
May	1081891-2 $\frac{3}{4}$ <hr/> 7236770-9	Nov	1599131-15 $\frac{1}{2}$ <hr/> 18364865-8
June	1495414-8 <hr/> 8732185-1	Dec	1531816-11 $\frac{1}{2}$ <hr/> 19896682-3 $\frac{1}{2}$

BEECH NUT.

1918.

Jan.	918236-4	July	1518517-2
			<u>11960671-5$\frac{3}{4}$</u>
Feb	2103950-12 $\frac{1}{4}$	Aug	1564699-14 $\frac{1}{4}$
	<u>3022187-1$\frac{1}{4}$</u>		<u>13525371-4</u>
Mar	2037787-2 $\frac{3}{4}$	Sept	1203866-13 $\frac{3}{4}$
	<u>5059974-3</u>		<u>14729238-1$\frac{3}{4}$</u>
Apr	2197612-6 $\frac{1}{2}$	Oct	1402560-6 $\frac{3}{4}$
	<u>7257586-9$\frac{1}{2}$</u>		<u>16131798-8$\frac{1}{2}$</u>
May	1828721-13	Nov	1364299-14
	<u>9086308-6$\frac{1}{2}$</u>		<u>17496098-6$\frac{1}{2}$</u>
June	1355845-13 $\frac{1}{4}$	Dec	1640674-2
	<u>10442154-3$\frac{3}{4}$</u>		<u>19136772-8$\frac{1}{2}$</u>

BEECH NUT.

1919.

[NOTE: No entries on the page headed "Beech Nut 1919."]

**P. LORILLARD CO. EXHIBIT E—COPIES OF BEECH-NUT IN-
VOICES, P. LORILLARD COMPANY.**

No Claims or return of goods allowed unless made within five days after receipt of Goods.
No insurance on goods unless so ordered.

P. LORILLARD COMPANY

Established 1760.

Incorporated.

[Cut]

TOBACCO—CIGARETTES—CIGARS

119 WEST 40TH STREET

MS Mid 9749

NEW YORK, May 1st, 1915.

Sold to THOMAS C. JENKINS,
Pittsburgh Terminal Warehouse
South Side, Pittsburgh, Pa

Terms Cash:

We allow a discount of 2 % for cash in 10 days from date of bill,
payable in New York exchange

No Payment (except at this office) or Advances of any Nature on our
Account are Authorized except on our written order.

Goods sold upon the express condition that transportation is at purchasers risk.

Shipped from Middletown, Ohio

Order of April 22nd.

281-4	10-1¼ gr Beechnut	5¢ pkg	12½ Gro	5.76	72.00
31-4	Free		Less 10%		7.20

64.80

200 pkgs Beechnut
#90786

Free

[P. Lorillard Co. Bill Head.]

19654-a

NEW YORK, July 8th, 1915.

Sold to THOMAS C. JENKINS,
S. S. Pittsburgh, Pa.

Shipped from Middletown, Ohio

Order of J June 26th

150-1¼ gro Honest Scrap	5¢ pkg.	187½ gr	6.00	1125.00
50-1¼ gro Beechnut	"	62½ gr	5.76	360.00

1485.00

1000 pkgs Beech Nut Free

Less 10%

148.50

1336.50

Order No. 93488

Balance of order will follow.

[P. Lorillard Co. Bill Head.]

Mid 49791

NEW YORK, Jan 14/16

Sold to THOMAS C. JENKINS,
Terminal Warehouse Sta S. S.
Pittsburgh Pa.

Shipped from Middletown Ohio

Order of Jan 8

1- 1⅓ Gro Bag Pipe	5¢ Pkg	1⅓ Gro	5.88	7.80
50- 1¼ Gro Beechnut	"	62½ Gro	6.00	375.00
100- 1¼ Gro Honest Scrap	"	125 Gro	6.00	750.00
25- ½ Gro Honest Scrap	"	12½ Gro	6.00	75.00
20- 1¼ Gro Polar Bear	"	25 Gro	5.76	144.00
5- ½ Gro Polar Bear	"	2½ Gro	5.76	14.40

1366.24

Less 10%

136.62

#5525

1229.62

[P. Lorillard Co. Bill Head.]

Mid 76128

NEW YORK, July 11. 1916

Sold to THOMAS C. JENKINS,
Pittsburgh Terminal Warehouse
Pittsburgh Pa.

Shipped from Middletown Ohio

Order of J June 22

4- 1¼ Gro Beechnut 5¢ pkg	5 Gro	6.00	30.00
	Less 10%		3.00

27.00

To E Strong Cadiz Ohio

[P. Lorillard Co. Bill Head.]

108295-A

NEW YORK, Jan 5/17

Sold to THOMAS C. JENKINS,
Pittsburgh Terminal Warehouses
So. Side Pittsburgh, Pa.

Shipped from Middletown, Ohio

Order of J Dec. 23

100- 1¼ Gro Beech Nut 5¢ pkg	125 gro	6.00	750.00
25- ½ gro Beech Nut "	12½ gro	6.00	75.00
20- 1¼ gro Polar Bear "	25 gro	6.00	150.00
10- ½ gro Polar Bear "	5 gro	6.00	30.00
			1005.00
	Less 10%		100.50

904.50

#24135

Balance of order will follow.

[P. Lorillard Co. Bill Head.]

LW 22205-B

NEW YORK, July 12/17

Sold to THOMAS C. JENKINS,
Pittsburgh Terminal Warehouse S. S.
Pittsburgh, Pa.

Shipped from Middletown, Ohio

Order of J June 12

100- 1¼ Gro Beech Nut 5¢ pkg	125 Gro	6.00	750.00
	Less 10%		75.00

675.00

3184

326

PATENT OFFICE LORILLARD EXHIBITS.

[P. Lorillard Co. Bill Head.]

R/S Mid 62005 NEW YORK, Jan 5-1918
 Sold to THOMAS C. JENKINS,
 Pittsburgh Term Warehouse Co.
 Pittsburgh Pa.

Shipped from Middletown Ohio Order of J Dec 29-

100-	1/2	Gro Beechnut 10¢ pkg.	50	gro	11.52	576.00
200-	1 1/4	Gro Beechnut 10¢ pkg.	250	gro	11.52	2880.00
200-	1/2	Gro Honest 10¢ pkg.	100	gro	11.52	1152.00
200-	1 1/4	Gro Honest Scrap 10¢	250	gro	11.52	2880.00
25-	1 1/4	Gro Polar Bear 10¢ pkg.	31 1/4	gro	11.52	360.00
50-	1/2	Gro Polar Bear 10¢ pkg.	25	gro	11.52	288.00
						8136.00
Less 10%						813.60
#38498						7322.40

[P. Lorillard Co. Bill Head.]

R/S Mid 89025 NEW YORK, July 8-18
 Sold to THOMAS C. JENKINS Co.,
 Pittsburgh Term Warehouse S. C.
 Pittsburgh Pa.

Shipped from Middletown Ohio Order of J Jun 29

50-10	Pl Climax 35¢ thn 3x12 w. b.	500	pl.	.28	140.00
15-	6 Pl Climax 70¢ thk	90	pl.	.56	50.40
100-	1 1/4 Gro Beechnut 10¢	125	gro	11.52	1440.00
					1630.40
Less 7% on claim					13.33
#44244					1473.07

[P. Lorillard Co. Bill Head.]

AC Mid 14040 A NEW YORK, Jan 14, 1919.
 Sold to THOS. C. JENKINS Co.,
 Pittsburgh Term. Warehouse, So. Side
 Pittsburgh, Pa.

Shipped from Middletown, Ohio Order of J 11/30

150-	1¼	Gro Beech Nut	10¢	187½	Gro	11.52	2160.00
100-	½	Gro Beech Nut	10¢	50	Gro	11.52	576.00
100-	1¼	Gro Hon Scrap	10¢	125	Gro	11.52	1440.00

 4176.00

Order #49334.

Less 10%

 417.60

Balance of Order will follow.

 3758.40

[P. Lorillard Co. Bill Head.]

AC Mid 63064 NEW YORK, July 12, 1919
 Sold to THOS. JENKINS Co.,
 Pittsburgh Term. Warehouse, S. S.
 Pittsburgh, Pa.

Shipped from Middletown, Ohio Order of

150-	2	Gro Beech Nut	10¢	300	Gro	11.52	3456.00
75-	¾	Gro Beech Nut	10¢	50	Gro	11.52	576.00
150-	1¼	Gro Hon Scrap	10¢	187½	Gro	11.52	2160.00
75-	½	Gro Hon Scrap	10¢	37½	Gro	11.52	432.00
25-	2	Gro Polar Bear	10¢	50	Gro	11.52	576.00
25-	¾	Gro Polar Bear	10¢	16¾	Gro	11.52	192.00

 7392.00

Order #5720

Less 10%

 739.20

6652.80

[P. Lorillard Co. Bill Head.]

City-4561
Sold to S. EWART Co.,
Pittsburgh, Pa.
Shipped from Middletown, Ohio
281- 4 Beech Nut 5¢ pkg 12½ Gro 5.76 72.00
31- 4 Free Beechnut " Less 10% 7.20
200 pkgs Free 64.80
L. & W. #3014
Delivered by our Mr. S. H. Handy, 5-24-15.

NEW YORK, June 3, 1915

Order of A. E. H. 5-27-15

[P. Lorillard Co. Bill Head.]

22827
Sold to S. EWART Co.,
Pittsburgh, Pa.
Shipped from Middletown, Ohio
5- 1¼ gr Beech Nut 5¢ pkg 6¼ gr 5.76 36.00
10 5/9 gr Beech Nut " 5 5/9 gr 5.76 32.00
50- ¼ gr Honest Scrap " 62½ gr 6.00 375.00
50- ½ gr Honest Scrap " 25 gr 6.00 150.00
593.00
Less 10% 59.30 533.70

NEW YORK, July 27/15

Order of J July 16

[P. Lorillard Co. Bill Head.]

Mid 48096
Sold to S. EWART Co.,
Pittsburgh, Pa.
Shipped from Middletown, Ohio
10- 1¼ Gro Beechnut 10c 5¢ pkg 12½ Gro 6.00 75.00
5- 1¼ Gro Polar Bear " 6¼ Gro 5.76 36.00
10- ¼ Gro Polar Bear " 5 Gro 5.76 28.80
139.60
Less 10% 13.98
125.82

NEW YORK, Jan 4, 1916

Order of J Dec. 24

[P. Lorillard Co. Bill Head.]

Mid 82066

NEW YORK, Aug. 12, 1916

Sold to S. EWART Co.,
Pittsburgh, Pa.

Shipped from Middletown, Ohio

Order of J July 25

15- 1¼ Gro Beechnut 5¢ pkg	18¾ Gro	6.00	112.50
	Less 10%		11.52

101.25

[P. Lorillard Co. Bill Head.]

110876

NEW YORK, Jan 18/17

Sold to S. EWART Co.,
Pittsburgh, Pa.

Shipped from Middletown, O.

Order of J Jan. 8

30- 1¼ Gro Beech Nut 5¢ pkg	37½ Gro	6.00	225.00
30- 1¼ Gro Honest Scrap "	37½ Gro	6.00	225.00
30- ½ Gro Honest Scrap "	15 Gro	6.00	90.00

540.00

Less 10% 54.00

486.00

[P. Lorillard Co. Bill Head.]

LW 20630-B

NEW YORK, July 21/17

Sold to S. EWART Co.,
Pittsburgh, Pa.

Shipped from Middletown, O

Order of J May 21

10- 1¼ Gro Honest Scrap 5¢ pkg	12½ Gro	6.00	75.00
15- 1¼ Gro Beech Nut "	18¾ Gro	6.00	112.50

187.50

Less 10% 18.75

168.75

Balance of order will follow.

[P. Lorillard Co. Bill Head.]

R/C Mid 61507
 Sold to S. Ewart & Co.,
 Pittsburgh, Pa.

NEW YORK, Feb. 5-18-

Shipped from Middletown, Ohio

Order of J Jan 3

10- 1¼	Gro Polar Bear 10¢	12½	gro	11.52	144.00
50- 1¼	Gro Honest Scrap 10¢	62½	gro	11.52	720.00
50- ½	Gro Honest 10¢	25	gro	11.52	288.00
50- 1¼	Gro Beechnut 10¢	62½	gro	11.52	720.00
50- ½	Gro Beechnut 10¢	25	gro	11.52	288.00

2160.00

Less 10%

216.00

944.00

[P. Lorillard Co. Bill Head.]

R/S Mis 6600
 Sold to S. Ewart Co.,
 Pittsburgh, Pa.

NEW YORK, Nov. 16-1918

Shipped from Middletown, Ohio

Order of J Oct. 5-20-

50- 1¼	Gro Beechnut 10¢	62½	gro	11.52	720.00
10- 6	Pl Climax 70¢ thk.	60	pl.	.56	33.60
5-10	Pl Climax 35¢ thn	50	pl.	.28	14.00

767.60.

Less 7% on Climax

3.33

764.27

Less 10% on Scrap

72.00

692.27

[P. Lorillard Co. Bill Head.]

AC Mid 12344 D
 Sold to S. Ewart,
 Pittsburgh, Pa.

NEW YORK, Jan 6, 1919

Shipped from Middletown, Ohio

Order of S 11/16

25- ½	Gro Beech Nut 10¢	12½	Gro	11.52	144.00
			Less 10%		14.40

129.60

[P. Lorillard Co. Bill Head.]

AC Mid 71731 A

Sold to S. EWART Co.,
Pittsburgh, Pa.

NEW YORK Sept. 16, 1919

Shipped from Middletown, Ohio

Order of

5-2	Gro	Polar Bear	10¢	10	Gro	11.52	115.20
10- $\frac{2}{3}$	Gro	Polar Bear	10¢	6 $\frac{2}{3}$	Gro	11.52	76.80
50-2	Gro	Beech Nut	10¢	100	Gro	11.52	1152.00
50- $\frac{2}{3}$	Gro	Beech Nut	10¢	33 $\frac{1}{3}$	Gro	11.52	384.00
16-2	Gro	Hon Scrap	10¢	32	Gro	11.52	368.64
10- $\frac{2}{3}$	Gro	Hon Scrap	10¢	12 $\frac{2}{3}$	Gro	11.52	145.92

Balance of Order will follow.

2242.56

Less 10% 224.26

2018.30

[P. Lorillard Co. Bill Head.]

19069

NEW YORK June 30th, 1915.

Sold to ARBUCKLES & Co.,
Pittsburgh, Pa.

Shipped from Middletown, Ohio Order of J June 24th

112-8	4-1 $\frac{1}{4}$ Gr	Beech Nut	5¢ pkg	5 gr	5.76	28.80
12-8	Free	80 pkgs	Beechnut	Free	Less 10%	2.88 25.92

[P. Lorillard Co. Bill Head.]

20239

NEW YORK July 8th, 1915.

Sold to ARBUCKLES & Co.,
Pittsburgh, Pa.

Terms Cash:

Shipped from Middletown, Ohio Order of J July 2nd

4-1 $\frac{1}{4}$	gr	Beechnut	5¢ pkg	5 gr	5.76	28.80
		Beechnut	“	80 pkgs	Free	Less 10%

2.88

25.92

3040

332

PATENT OFFICE LORILLARD EXHIBITS.

[P. Lorillard Co. Bill Head.]

Mid 50120

NEW YORK Jan 14. 1916

Sold to ARBUCKLES & Co.
Pittsburgh, Pa.

Shipped from Middletown Ohio

Order of J Jan 8

15-1 ¼ Gro Beechnut 5¢Pkg

18¾ Gro	6.00	112.50
	Less 10%	11.52

101.25

[P. Lorillard Co. Bill Head.]

EW Mid 79146

NEW YORK July 19. 1916

Sold to ARBUCKLES & Co.,
Pittsburgh Pa.

Shipped from Middletown Ohio

Order of J July 10

2-1

20-1¼ Beechnyt 5¢ pkg

25 Gro	6.00	150.00
	Less 10%	13.00

Balande of order will follow

135.00

[P. Lorillard Co. Bill Head.]

LW 209-A

NEW YORK Feb. 7/17

Sold to ARBUCKLES & Co.,
Pittsburgh, Pa.

Shipped from Middletown, Ohio

Order of J Jan 22

25-1 ¼ Gro Beech Nut 5¢ pkg

31¼ Gro	6.00	187.50
	Less 10%	18.75

Balance of order will follow.

168.75

[P. Lorillard Co. Bill Head.]

LW 21001-B

NEW YORK July 21/17

Sold to ARBUCKLES & COMPANY,
Pittsburgh, Pa.

Shipped from Middletown, O	Order of J May 21		
20-1¼ Gro Beech Nut 5¢ pkg	25 Gro	6.00	150.00
15-1¼ Gro Polar Bear "	18-¾ Gro	6.00	112.50
			<u>262.50</u>
(Balance of order will follow)	Less 10%		26.25
			<u>236.25</u>

[P. Lorillard Co. Bill Head.]

R/S Mid 64579

NEW YORK Feb. 2-1918

Sold to ARBUCKLES & Co.,
Pittsburgh Pa.

Shipped from Middletown Ohio	Order of S Jan 26-		
50-1¼ Gro Beechnut 10¢	62½gro	11.52	720.00
50-1¼ Gro Honest 10¢	62½gro	11.52	720.00
# 7			<u>1440.00</u>
	Less 10%	144.00	1296.00

[P. Lorillard Co. Bill Head.]

R/S Mid 94968

NEW YORK, Aug. 16/18

Sold to ARBUCKLES & Co.,
Pittsburgh, Pa.

Shipped from Middletown, Ohio	Order of S Aug 6		
50-1¼ Gro Honest 10¢	62½ Gro	11.52	720.00
200-1¼ Gro Beechnut 10¢	250 Gro	11.52	2880.00
			<u>3600.00</u>
	Less 10%		360.00
			<u>3240.00</u>

[P. Lorillard Co. Bill Head.]

A Mid 18325

NEW YORK Jan 14, 1919

Sold to ARBUCKLES & Co.,
Pittsburgh, Pa.

Shipped from Middletown, Ohio

Order of J 1/2

100-	1¼	Gro	Beech Nut	10¢	125	Gro	11.52	1440.00
125-	1¼	Gro	Hon Scrap	10¢	156¼	Gro	11.52	1800.00
25-	1¼	Gro	Polar Bear	10¢	31¼	Gro	11.52	360.00
								<u>3600.00</u>
Less 10%								<u>360.00</u> 3240.00

[P. Lorillard Co. Bill Head.]

AC Mid 75239 A

NEW YORK Aug 26, 1919

Sold to ARBUCKLES & Co.,
Pittsburgh, Pa.

Shipped from Middletown, Ohio

Order of

50-	2	Gro	Beech Nut	10¢	100	Gro	11.52	1152.00
30-	2	Gro	Hon Scrap	10¢	60	Gro	11.52	691.20
								<u>1843.20</u>
Balance of Order will follow.								<u>184.32</u> 1658.88
Less 10%								

[P. Lorillard Co. Bill Head.]

2252

NEW YORK July 12, 1915.

Sold to UNITED CIGAR STORE Co.,
44 W. 19th St.,
New York City, N. Y.

Shipped from Middletown, Ohio

Order of J July 3

2-1½	Gro	Bag	Pipe	5¢	pkg	2⅔	gr	5.88	15.68
4-1¼	gr	Beech	Nut	"		5	gr	5.76	28.80
								<u>44.48</u>	
#N-57507								<u>4.45</u> 40.03	
Less 10%									

[P. Lorillard Co. Pill Head.]

22844

NEW YORK July 24, 1915

Sold to UNITED CIGAR STORES Co.,
44 West 18th St.,
New York, N. Y.

Shipped from Middletown, Ohio

Order of J July 17

2-1 $\frac{1}{3}$ gr Bag Pipe	5¢ Pkg	2 $\frac{2}{3}$ gr	5.88	15.68
8-1 $\frac{1}{4}$ gr Beech Nut	"	10 gr	5.76	57.60

73.28

Less 10%

7.33

#N 60293

65.95

Depot c/o Bush Terminal Co., 36th St. Sta. Brooklyn, N. Y.

[P. Lorillard Co. Bill Head.]

Mid 47494

NEW YORK Jan 3, 1916

Sold to UNITED CIGAR STORES Co.
314 W. Superior St.
Chicago Ill.

Shipped from Middletown Ohio

Order of S Jan 3

10- 1 $\frac{1}{4}$ Gro Beechnut 5¢ Pkg	12 $\frac{1}{2}$ Gro	6.00	75.00
40- 1 $\frac{1}{4}$ Gro Polar Bear	50 Gro	5.76	288.00

363.00

Less 10%

36.30

681996

81997

326.70

[P. Lorillard Co. Bill Head.]

Mid 57574-B

NEW YORK July 6/16

Sold to UNITED CIGAR STORES Co.
44 West 18th St.,
New York N. Y.

Shipped from Middletown Ohio

Order of S June 17

40- 1 $\frac{1}{4}$ Beechnut 5¢ pkg	50 Gro	300.00
	Less 10%	30.00

N 49570

Depot c/o Bush Terminal Co.
36th St. Sta. Brooklyn N Y

270.00

[P. Lorillard Co. Bill Head.]

LW 101132
 Sold to UNITED CIGAR STORES Co.,
 44 West 18th St.,
 New York City.
 Shipped from Middletown, O
 Order of J Nov 11th
 80- 1¼ Gro Beech Nut 5¢ pkg 100 Gro 6.00 600.00
 Less 10% 60.00
 # N 81694 540.00
 Depot Bush Term. Bldg 35th Sts. & 2nd Ave. Brooklyn, N. Y.

[P. Lorillard Co. Bill Head.]

LW 19560
 Sold to UNITED CIGAR STORES Co.,
 44 W. 18th St.,
 New York City.
 Shipped from Middletown, O
 Order of J May 15
 2- 1¼ Gro Bag Pipe 5¢ pkg 2½ Gro 6.00 15.00
 80- 1¼ Gro Beech Nut " 100 Gro 6.00 600.00
 615.00
 Less 10% 61.50
 # P 21943 553.50
 Depot e/o Bush Term. Co., 36th St. Sta. Bldg. 4 Brooklyn, N. Y.

[P. Lorillard Co. Bill Head.]

R/S Mid 62837

NEW YORK Feb. 20-18

Sold to UNITED CIG. STORES

44 W. 18th St.,

New York N. Y.

Shipped from Middletown Ohio

Order of

80- 1¼ Gro Polar Bear 10¢ 100 gro 11.52 1152.00

Order # P 73070

80- 1¼ Gro Beechnut 10¢ 100 gro 11.52 1152.00

Order # P 73060

2304.00

Less 10%

230.40 2073.60

To Depot Bush Terminal Co., 36th St. Sta. Bldg. #4 Bklyn N. Y.

[P. Lorillard Co. Bill Head.]

R/S Mid 5930

NEW YORK Nov. 21-1918

Sold to UNITED CIG. STORES Co. OF AMERICA,

44 West 18th St.,

New York City.

Shipped from Middletown Ohio

Order of J Oct. 7-

160- 1¼ Gro Beechnut 10¢ 200 gro 11.52 2304.00

2- 1¼ Gro Bag Pipe 10¢ pkg. 2½ gro 11.52 28.80

2332.80

Less 10%

233.28

2099.52

To U. C. S. Co., 39th St., & 1st Ave., Bush Terminal Brklyn N. Y.

23291

[P. Lorillard Co. Bill Head.]

Mid 26880 NEW YORK Mar 20, 1919
 Sold to UNITED CIG. STORES CO. OF AMERICA,
 44 West 18th St.,
 New York, N. Y.

Shipped from Middletown, Ohio Order of J 2/18

150- 2	Gro Beech Nut 10¢	300	Gro 11.52	3456.00
			Less 10%	345.60
				<hr/>
	Order # B45088			3110.40

To Depot 39th St & 1st Ave., Bush Term. Bklyn, N. Y.

[P. Lorillard Co. Bill Head.]

AC Mid 70104 NEW YORK Aug. 7, 1919
 Sold to UNITED CIG. STORES CO. OF AMERICA
 44 W. 18th St.,
 New York, N. Y.

Shipped from Middletown, Ohio Order of

25- 2	Gro Beech Nut 10¢	50	Gro 11.52	576.00
			Less 7%	40.32
				<hr/>
	Order # B 80596			535.68

To Depot 39th St & 1st Ave., Bush. Term., Brklyn, N. Y.

[P. Lorillard Co. Bill Head.]

LW 29386 NEW YORK Aug. 11, 1917
 Sold to METROPOLITAN TOB. CO., Yonkers Breh.,
 Yonkers, N. Y.

Shipped from Middletown, Ohio Order of J July 3

4- 1¼	Gro Beech Nut 10¢ pkg	5	Gro 11.52	57.60
			Less 10%	5.76
				<hr/>
	# 11Y			51.84

[P. Lorillard Co. Bill Head.]

R/S Mid 64056
 Sold to METROPOLITAN Tob. Co.,
 Yonkers Br.,
 Yonkers N. Y.

NEW YORK Apr. 9-1918

Shipped from Middletown Ohio

Order of J Jan 25-

4- 1¼ Gro Beechnut 10¢ pkg.	5	gro	11.52	57.60	
		Less 10%		5.76	51.84
Order # 104Y					

[P. Lorillard Co. Bill Head.]

R/S Mid 92145
 Sold to METROPOLITAN Tob. Co.,
 Brooklyn Br.,
 649 Warren St.,
 Brooklyn N. Y.

NEW YORK Aug. 1-18

Shipped from Middletown Ohio

Order of J Jul-19

4- 1¼ Gro Beechnut 10¢	5	gro	11.52	57.60	
8- 1¼ Gro Honest 10¢	10	gro	11.52	115.20	
				172.80	
		Less 10%		17.28	155.52
Order # 87B					

[P. Lorillard Co. Bill Head.]

AC Mid 19479
 Sold to METROPOLITAN Tob. Co.,
 Yonkers Breh.,
 Yonkers, N. Y.

NEW YORK Jan 21, 1919

Shipped from Middletown, Ohio

Order of J 1/3

8- 1¼ Gro Hon Serap 10¢	10	Gro	11.52	115.20	
8- 1¼ Gro Polar Bear 10¢	10	Gro	11.52	115.20	
8- 1¼ Gro Beech Nut 10¢	10	Gro	11.52	115.20	
				345.60	
		Less 10%		34.56	311.04
Order # 17Y					

[P. Lorillard Co. Bill Head.]

AC Mid 67927 NEW YORK Aug. 7, 1919
 Sold to METROPOLITAN TOB. Co.,
 2234 4th Ave. Cor. Astor Pl. & Lafayette St.,
 New York, N. Y.

Shipped from		Middletown, Ohio		Order of	
25-	2	Gro Hon Scrap	10¢	50	Gro 11.52 576.00
25-	2	Gro Beech Nut	10¢	50	Gro 11.52 576.00
					1152.00
Less 7%					80.64
Order # 27					1071.36

[P. Lorillard Co. Bill Head.]

AC Mid 2909 NEW YORK Nov. 28, 1919
 Sold to D. A. SCHULTE, Inc.,
 384 Broadway,
 New York, N. Y.

Shipped from		Middletown, Ohio		Order of	
2-	2	Gro Beech Nut	10¢	4	Gro 11.52 46.08
1-	2	Gro Hon Scrap	10¢	2	Gro 11.52 23.04
					69.12
To—Columbus, Ohio.					6.91 62.21
					Less 10%

P. LORILLARD EXHIBIT F—PORTION OF THE ORIGINAL
WEISSINGER "BEECHNUT" TOBACCO WRAPPER.

BEECHNUT
... LONG CUT ...
Chewing and Smoking Tobacco.
SUPERIOR QUALITY.
TWO OUNCES.
HARRY WEISSINGER TOB. CO., Louisville, Ky.

Chewing and Smoking.

IN THE UNITED STATES PATENT OFFICE.

P. Lorillard Company } Trade Mark
vs: } Opposition #2905
(Beech-Nut Packing } **BEECH NUT.**
Company..... }

P. LORILLARD COMPANY EXHIBIT NO. "F."

(SEAL) *W. A. Blair*
Notary Public.



**P. LORILLARD CO. EXHIBIT H—WEISSINGER
FORMULA BOOK.**

(NOTE: 200 page Memoranda Book, of which only the front outside cover and the entry headed "Beechnut" are printed.)

[On outside front cover.]

JAS. F. SUMMERS.

H. W. TOB. CO.

[On a page about three-quarters way through the book:]

Beechnut
Chewing & Smoking (Cigar Clippings)

Sugar	110
Licorice	35
Salt	7
Glycerine	5

157

Dip @ 22°
Cost .05⅓ ¢ per lb.

**P. LORILLARD CO. EXHIBIT I—ORDERS TO SUM-
MERS FROM WEISSINGER.**

NEW YORK Jan 12/03

H. W. TOB. CO.

Copy
Jim Summers

After filling orders for Beechnut on hand & those we may mail you today—pack Beechnut only in 1 size case of 100#

CONTINENTAL TOB. CO.

**P. LORILLARD CO. EXHIBIT J—LETTERS PRO-
DUCED BY SUMMERS.**

HARRY WEISSINGER TOBACCO COMPANY.

INCORPORATED.

HARRY WEISSINGER, President.
JOHN MIDDLETON, Vice President.
F. E. PHILLIPS, Superintendent.
H. D. KINGSBURY, Treasurer.
H. Y. WEISSINGER, Secretary.
GEO. E. RAWSON, Asst. Secy.

LOUISVILLE, KY., Feb. 6, 1903.

Copy

Dictated to

HARRY WEISSINGER TOBACCO CO.,
Louisville, Ky.

Gentlemen:—

Referring to the box of advertising matter you sent us some days ago, we will request that you *destroy* the following:

- 2,000 Manila envelopes addressed to "Harry Weissinger Tob. Co."
- 5,300 BEECHNUT paper signs (white)
- 800 CLEAVER paper signs (Manila)
- 28,000 circulars addressed to Consumer, Nov 1st, 1902, (white)
- 56,000 circulars addressed to Consumer, Nov 1st, 1902, (yellow)
- 28,000 premium circulars No. 1 (yellow)
- 20,000 premium circulars No. 2 (yellow)
- 138,000 premium circulars No. 3 (yellow)
- 320,000 BURR OAK samples wrappers
- 50 New Hope, 15oz., sample boxes (red)
- 1,500 OUR FLAG cards reading "A Man Murdered" (Blue Card-board)
- 20,000 Yellow notices reading "This tobacco is made by an independent factory not in the trust."

- 2,500 BURR OAK box strips, (white card-board)
 300 AUTUMN box strips (white card-board)
 2,000 OLD KENTUCKY box strips (white card-board)
 1,300 PEACE & GOOD WILL box strips (white card-board)
 3,000 HOLD FAST box strips. (white card-board)
 2,500 NEW HOPE box strips (white card-board)
 4,400 CHECK show cards (yellow)
 42,000 OLD KENTUCKY show cards (yellow)
 38,500 BURR OAK show cards (yellow)
 21,000 PEACE & GOOD WILL show cards (yellow)
 3,400 premium hangers (tin top and bottom)
 1,900 H. W. T. Co. Premium Books, 1902, containing
 complete list of premiums, (Retain 100)

Yours very truly,

CONTINENTAL TOBACCO CO.

W. H. McALISTER,

Secretary.

[In pencil]

Copy

Jim Summers

HARRY WEISSINGER TOBACCO COMPANY.

INCORPORATED.

HARRY WEISSINGER, President.
 JOHN MIDDLETON, Vice President.
 F. E. PHILLIPS, Superintendent.
 H. Y. WEISSINGER, Sec. & Treas.

Dictated by LOUISVILLE, KY., December 11, 1903.

COL. HARRY WEISSINGER,

%Harry Weissinger Tobacco Co.,

Copy.

Louisville, Ky.

Dear Sir:—

You will kindly send all of the Burley strips you have
 to the National, at 18th and Broadway, with the exception

of the K.K.'s, which will go to St. Louis, and the K.U.'s to Richmond. Seed-Leaf strips hold until I can hear from Sorg. Bill all Bueley Leaf and strips to the Louisville Leaf Dept., of C T Co., but sent them to 17th and Broadway. Send all wrappers to the National, 18th and Broadway, except "C" extra bright, which they will be unable to use there. I will write Mr. H A Walker today, as it might be possible to place these wrappers in the West. If not, we will ship them to Richmond. Bill wrappers to the National Tobacco Works Branch, as we will take them into the factory. We will also take your 5,000 lbs. of Burley siftings at the National. They can be billed to the National direct.

As we decided in our conversation this morning, it will not be necessary to move any of the wrappers or strips in our own storage warehouse, but simply to bill them as directed as above and will take them out as needed.

Me. Hanlon says he is ready to take hold of your Licorice, sugar and other materials anytime you are ready to send them.

Yours very truly,

R. K. SMITH.

[In pencil.]

Col Phillips

[Underlining in lead pencil. Opposite underlining in right margin are some pencilled words:]

Beechnut only

scrap—send seed leaf for Beechnut.

HCB

P. LORILLARD CO. EXHIBIT K—BOX LIST.

[NOTE: Italics indicate items written in pencil.]

HARRY WEISSINGER TOBACCO CO.**SMOKING BOXES.**

# 1	Smokers	11 $\frac{3}{4}$ x 11 $\frac{1}{2}$ x 9	10#	1 $\frac{2}{3}$ oz	Flag	11¢
# 2	"	11 $\frac{1}{2}$ x 9 $\frac{5}{8}$ x 6	5#	1 $\frac{2}{3}$ oz.	Flag	10¢
# 3	"	18 x 17 $\frac{1}{8}$ x 11 $\frac{1}{4}$	30#	"	"	25¢
# 4	"	Bat. 34 $\frac{1}{8}$ x 18 x 11 $\frac{1}{4}$	60#	"	"	40¢
# 5	"	" 29 x 22 $\frac{1}{4}$ x 17 $\frac{7}{8}$	100#	"	"	41¢
# 6	"	11 $\frac{1}{4}$ x 9 x 8 $\frac{1}{4}$	10#	3 $\frac{1}{3}$ oz.	"	9¢
# 7	"	9 x 6 $\frac{1}{2}$ x 7 $\frac{3}{8}$	6#	16 oz.	"	8¢
# 8	"	12 $\frac{7}{8}$ x 9 x 7 $\frac{3}{8}$	12#	"	"	10¢
# 9	"	Bat. 22 $\frac{1}{2}$ x 13 x 12	50#	"	"	30¢
# 10	"	11 $\frac{3}{8}$ x 9 $\frac{5}{8}$ x 5 $\frac{5}{8}$	5#	1 $\frac{2}{3}$ oz.	Kip	10¢
# 11	"	11 $\frac{1}{4}$ x 11 $\frac{3}{8}$ x 9 $\frac{3}{4}$	10#	"	"	12¢
# 12	"	12 $\frac{3}{8}$ x 8 $\frac{3}{8}$ x 7 $\frac{3}{8}$	5#	"	"	B.R. 10¢
# 13	"	10 $\frac{3}{4}$ x 9 $\frac{3}{4}$ x 9 $\frac{1}{2}$	5#	3 $\frac{1}{3}$ oz.	3 St.	10¢
# 14	"	19 $\frac{1}{8}$ x 10 $\frac{3}{4}$ x 9 $\frac{1}{2}$	10#	"	"	16 $\frac{1}{2}$ ¢
15	"	25 $\frac{3}{8}$ x 14 $\frac{1}{8}$ x 11	20#	2 $\frac{1}{2}$ oz	B Nut	24¢
16	"	12 $\frac{3}{4}$ x 14 $\frac{1}{8}$ x 11	10#	2 $\frac{1}{2}$ "	"	17 $\frac{1}{2}$ ¢
17	"	31 $\frac{1}{2}$ x 28 x 22	100 lbs	B.N."	"	85¢
18	"	14 $\frac{3}{8}$ x 11 $\frac{1}{8}$ x 9 $\frac{1}{8}$	10 lbs.	1st cabin		12¢
19	"	28 $\frac{5}{8}$ x 11 $\frac{1}{8}$ x 9 $\frac{1}{8}$	20	"	"	"
20	"	35 $\frac{1}{2}$ x 22 $\frac{1}{4}$ x 18 $\frac{1}{8}$	100 lbs	"	"	67¢
21	"	G. I. 14 $\frac{3}{8}$ x 11 $\frac{1}{8}$ x 9 $\frac{1}{8}$	10 lbs	R. I.	x	
22	"	G. I. 28 $\frac{5}{8}$ x 11 $\frac{1}{8}$ x 9 $\frac{1}{8}$	20	"	"	x
23	"	G. I. 35 $\frac{1}{2}$ x 22 $\frac{1}{4}$ x 18 $\frac{1}{8}$	100 lbs	"	"	x
24	"	11 $\frac{1}{2}$ x 9 $\frac{3}{4}$ x 5 $\frac{3}{4}$	6#	Cleaver		
25	"	11 $\frac{7}{8}$ x 11 $\frac{1}{2}$ x 9 $\frac{5}{8}$	12	"		12 $\frac{1}{4}$ ¢
26	"	19 $\frac{1}{2}$ x 11 $\frac{1}{2}$ x 11 $\frac{1}{4}$	24	"		
27	"	14 x 10 $\frac{1}{4}$ x 8 $\frac{5}{8}$	10	3 $\frac{1}{2}$ oz.	1st Cabin	11 $\frac{1}{2}$ ¢

New Smokers.

# 1	10 lb. Flag	1 $\frac{2}{3}$ oz.	11 x 10 $\frac{1}{8}$ x 8 $\frac{7}{8}$	10¢
# 20	"	1 $\frac{2}{3}$ oz.	20 $\frac{1}{4}$ x 11 x 8 $\frac{7}{8}$	17¢
# 1	10 lbs. Flag	1 $\frac{2}{3}$ oz.	11 $\frac{1}{8}$ x 10 $\frac{1}{4}$ x 9	11¢
# 2	20	"	20 $\frac{1}{2}$ x 11 $\frac{1}{8}$ x 9	17 $\frac{1}{2}$ ¢

CLERK'S CERTIFICATE.

UNITED STATES OF AMERICA,
EASTERN DISTRICT OF PENNSYLVANIA, } *Sct.:*
THIRD JUDICIAL CIRCUIT.

I, Saunders Lewis, Jr., clerk of the United States Circuit Court of Appeals, for the Third Circuit, do HEREBY CERTIFY the foregoing to be a true and faithful copy of the original transcript of record, Vol. VI, Exhibits, in the case of: Beech-Nut Packing Company, appellant, vs. P. Lorillard Co., appellee, No. 3282, on file, and now remaining among the records of the said Court, in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the said Court, at Philadelphia, this 30th day of October, in the year of our Lord one thousand nine hundred and twenty-five, and of the Independence of the United States the one hundred and fiftieth.

SAUNDERS LEWIS, JR.,

*Clerk of the United States Circuit
Court of Appeals, Third Circuit.*

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed January 11, 1926

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(3084)

1

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926.

No. 249.

BEECH-NUT PACKING COMPANY,
Petitioner,
VS.
P. LORILLARD COMPANY.

On Writ of Certiorari to the United States Circuit Court of Appeals for
the Third Circuit.

Petition for Certiorari Filed December 8, 1925. Certiorari Granted
January 11, 1926.

INDEX OF EXHIBITS.

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INDEX OF EXHIBITS.

Part I.—Plaintiff's Exhibits.

[NOTE: The absence of a page number in the last column indicates that exhibit is not printed.]

	Offered Vol. Page	Printed Vol. VI Page
Plaintiff's Exhibit No. 1, Package of Beech-Nut Cigarettes	I- 32	1
Plaintiff's Exhibit No. 2, Photograph, West Haven Drug Store Window Display.....	I-325	3
Plaintiff's Exhibit No. 3, Package of Beech-Nut Scrap Tobacco.....	I-330	5
Plaintiff's Exhibit No. 4, Package of Beech-Nut Cough Drops.....	I-333
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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1925.

No. .

BEECH-NUT PACKING COMPANY,

Petitioner,

vs.

P. LORILLARD COMPANY,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES CIRCUIT COURT OF APPEALS FOR
THE THIRD CIRCUIT.

*To the Honorable, the Supreme Court of the United
States:*

Petitioner, the Beech-Nut Packing Company, prays for
a writ of certiorari requiring that the above-entitled
cause be certified to this Court for determination.¹

¹ The opinions delivered in the courts below appear:
Circuit Court of Appeals, 3rd Circuit: — Fed. —;
Transcript of Record, Vol. V, pp. 308-319.
District Court of the United States, District of New
Jersey: 299 Fed. 834; Transcript, Vol. V, pp. 259-291.

The case is a suit in equity brought by the Beech-Nut Packing Company, a New York corporation, against the P. Lorillard Company, a New Jersey corporation. The bill charged that the P. Lorillard Company was infringing the trade-mark rights of the Beech-Nut Packing Company and was also violating rights secured to the Beech-Nut Packing Company by the principles of law known as the law of unfair competition, and asked for an injunction and other relief. The bill was filed June 17, 1921, in the United States District Court for New Jersey. Relief was denied and the bill dismissed June 17, 1924, by the District Court without costs to either party. Upon appeal the decree of the District Court was affirmed September 11, 1925, by the Circuit Court of Appeals for the Third Judicial Circuit.

Reasons for Petition.

The grounds upon which this petition is based are the importance of the principle of law established in the Third Judicial Circuit by the decision of the court below, and the fact that that principle of law is in direct conflict with the law established by prior decisions of the Circuit Courts of Appeals of the Sixth and Second Judicial Circuits.

The case at bar was decided by the court below upon a question of law. The ruling of the court below upon this question of law affects the business interests of the country generally and the interests of the purchasing public as vitally as it affects the interests of the parties brought before this Court by this petition. Twice in the Sixth Judicial Circuit and once in the Second Judicial Circuit the same question has been adjudicated, and in each of these three prior cases the decision of the Court of Appeals has been in direct conflict with the decision

of the Circuit Court of Appeals for the Third Judicial Circuit in the case at bar. In a number of cases in the English courts also the same question has been litigated, and decided as decided here in the Sixth and Second Circuits, and contrary to the decision of the Third Circuit Court of Appeals in the case at bar.

Question Involved.

The question involved is this: Where the good-will of an established and expanding business, and its trade-mark, trade name, corporate name or label have become so widely known that the public accepts as the products of that business new commodities not previously dealt in by it, but bearing its trade-mark, trade name or label,—is it a fraud, or is it the exercise of a legal right, for a stranger to put upon the market some commodity not previously dealt in by the established business, affix thereto and make advertising use of the trade-mark, trade name or label of the established business, and by that means deceive the purchasing public, appropriate and injure the good-will of the established business, and bar the expansion of the established business to commodities upon which its trade-mark, trade name or label will signify to the public that such commodities are its product? Is relief in such situations to be limited by an artificial rule that the courts will not interfere where such a stranger selects goods that are “not of the same class” as those dealt in by such previously established business, even though the whole consuming public be deceived and the prior party’s reputation and good-will be thus placed at the mercy of a person over whom it has no control?

This Case.

Upon a state of facts identical with that set forth in the preceding paragraph the Court of Appeals for the Third Circuit held in the case at bar that, because the Beech-Nut Packing Company does not deal in tobacco or cigarettes, the P. Lorillard Company was within its legal rights in applying to chewing tobacco and cigarettes the Beech-Nut Packing Company's trade-mark and trade name "Beech-Nut," and held that the act complained of violated neither the law of trade-marks nor that body of law known as the law of unfair competition.

This ruling was made in the face of undisputed evidence of universal deception of the purchasing public and of injury to petitioner's reputation and good-will. The Court based its decision upon its finding that there can be neither trade-mark infringement nor violation of the principles of law known as the law of unfair competition if the defendant does not sell goods which directly compete with or belong to "the same class" of merchandise as those sold by plaintiff.

The Beech-Nut Packing Company deals throughout the country in upwards of sixty products all bearing its Beech-Nut trade-mark, and deals to some extent in many other commodities similarly marked, most of which it manufactures in its own plants. It does not deal in tobacco products but has seriously considered doing so. In volume of business the principal product of the Beech-Nut Company is chewing gum. Other products are hard candy tablets, peanut butter, condiments, conserves, beverages, ham, bacon and a large variety of food products. Prior to the end of the year 1921, in which year the bill of complaint herein was filed, the Beech-Nut Packing Company had expended three million dollars in advertising its Beech-Nut products.

Conflicting Decisions.

In the following-named cases involving facts parallel to those in the case at bar, the Courts of Appeals of the Sixth and Second Circuits have made rulings of law in direct conflict with the law as laid down by the Third Circuit Court of Appeals in the instant case:

Vogue Company v. Thompson-Hudson Company et al., 300 Fed. 509; 6 Fed. (2nd) 875; Circuit Court of Appeals for the Sixth Circuit.

Defendants were dealers in women's hats. Plaintiff was the publisher of a monthly magazine called "Vogue" and did not deal in hats. Defendants were enjoined from using upon their hats plaintiff's trade-mark, which consisted of a large capital letter "V" with a picture of a woman between the sides of the letter.

Peninsular Chemical Company v. Levinson et al., 247 Fed. 658, Circuit Court of Appeals for the Sixth Circuit.

Plaintiff was a manufacturer of and dealer in drugs, medicines and drug store supplies and sundries which it sold to a chain of 3500 retail drug stores. Plaintiff used upon its goods the coined word "Penslar" as a trade-mark, and the drug stores through which the goods reached the public were known as "Penslar" drug stores. Plaintiff did not deal in cigars or other tobacco products. Defendants made and sold cigars to which they applied the word "Penslar" as a trade-mark. The Court held such use of the word "Penslar" to be a fraud and enjoined defendants therefrom.

Aunt Jemima Mills Company v. Rigney & Company, 247 Fed. 407, Circuit Court of Appeals for the Second Circuit.

Plaintiff manufactured and sold a self-rising flour to which it applied its trade-mark. The conspicuous elements of the trade-mark were the words "Aunt Jemima" and a picture of a colored woman. Defendant applied the same mark to syrup. Plaintiff did not make or deal in syrup. The Court enjoined further use of the Aunt Jemima trade-mark by defendant. Though the Court referred to the fact that flour and syrup are both food products the Court did not base its decision upon this classification of these commodities but upon the fact that purchasers were caused to believe that the Aunt Jemima syrup was made or sold by plaintiff.

The English Cases.

Following are references to English cases decided in harmony with the three cases above cited and involving facts parallel to the facts in those cases and in the case at bar:

Walter v. Ashton, [1902] 2 Chancery, 282. (High Court of Justice, Chancery Division—Byrne, J.)

Eastman Company v. Kodak Cycle Co., 15 Reports Patent Cases, 105. (High Court of Justice, Chancery Division—Romer, J., 1898.)

Dunlop Pneumatic Tyre Co. v. Dunlop Lubricant Co., 16 Reports Patent Cases, 12. (High Court of Justice, Chancery Division—Romer, J., 1898.)

Valentine Meat Juice Co. v. Valentine Extract Co., 17 Reports Patent Cases, 673. (Court of Appeal: Lords Alverstone, Rigby, and Collins.)

Dunlop Pneumatic Tyre Co. v. Dunlop-Truffault

Cycle & Tube Manufacturing Co., 12 Times Law Reports, 434. (High Court of Justice, Chancery Division—Chitty, J., 1896.)

Premier Cycle Company v. Premier Tube Company, 12 Times Law Reports, 481. (High Court of Justice, Chancery Division—Chitty, J., 1896.)

These cases will be considered in the adjoined brief.

The Rule of Law Established by the Court of Appeals in This Case.

The court below summed up its conclusion on the trade-mark branch of the case at bar in the following passage quoted from its opinion (— Fed. —; Transcript, Vol. V., pp. 314-315):

“The merchandise of the plaintiff and defendant belonged, therefore, to different classes. As the owner of a trade-mark, both on authority and reason, may not be restrained from its use on goods of one class, notwithstanding the identical trade-mark is used on goods of another class, we conclude that the defendant did not infringe plaintiff’s trade-mark and so may not be restrained from using its trade-mark on tobacco products.”

In discussing the unfair competition aspect of the case, the Court said (— Fed. —; Transcript, Vol. V., p. 315):

“Generically, the term ‘unfair competition,’ presupposes competition of some kind. *Borden Ice Cream Company v. Borden’s Condensed Milk Co.*, 201 Fed. 510, 514. And so courts have held that there must be a real, present or prospective competition; that is, an endeavor to get the same trade from the same people at the same time; and that endeavor must on the defendant’s part be unfair. *National Picture Theatres v. Foundation Film Corporation*, 266 Fed. 208, 211.”

“There is no evidence that the defendant ever intended presently or prospectively to compete for the trade of the plaintiff. It could not have done so as long as they continued their distinct and unrelated lines of business and there is no evidence that a change was ever contemplated by either. There was, therefore, no competition between them unfair or otherwise.”

After referring, in its discussion of the question of unfair competition, to the injury suffered by plaintiff, the Court announced the following conclusion (— Fed. —; Transcript, Vol. V., p. 317):

“This [the injury] resulted from the similarity of trade-marks on distinct and unrelated classes of merchandise. But from confusion and injury caused by similarity of names, courts will not relieve.”

Inasmuch as the Court decided the instant case upon its interpretation of the law applicable to the same state of facts in all cases, the following proposition is now a principle of law in the Third Judicial Circuit:

The good-will of an established and expanding business may be legally appropriated and injured, and the purchasing public may be deceived with impunity by anyone who sees advantage in using the trade-mark, trade name, corporate name or label of such established business in connection with the sale of goods, provided only that the goods so sold are not of the same class as those dealt in in the operation of the previously established business.

The Conflict.

The accompanying brief (bound herewith) contains an analysis of the opinions of the Courts of Appeals of the Sixth and Second Circuits in the three cases hereinbefore referred to in which those courts made rulings in conflict with the decision of the Court of Appeals in the case at bar.

That the Court of Appeals for the Third Circuit based its denial of relief in the instant case upon its dissent from the law as established in the Sixth and Second Circuits appears not only from the parallelism of the facts, but from the circumstance that the injury to the plaintiff and the deception of the public were of greater extent and much more clearly apparent in the case at bar than in the cases in the Sixth and Second Circuits, and from the further fact that the Court of Appeals for the Third Circuit made its decision in the instant case after full presentation in brief and argument of the cases in the Sixth and Second Circuits, and held, contrary to the Sixth and Second Circuit Courts, that the difference between the goods dealt in by the parties precluded the grant of relief.

Conclusion.

The decision of the Court of Appeals for the Third Circuit gives the sanction of legality to the P. Lorillard Company's use of the Beech-Nut Packing Company's name and identity as a disguise whereby Lorillard products are passed off on the public as Beech-Nut Packing Company products, and whereby the business good-will and the millions of dollars of advertising prestige of the Beech-Nut Packing Company are converted to the uses of the P. Lorillard Company. The exclusion of the

Beech-Nut Packing Company from the protection of those principles of equity which forbid and enjoin fraud is based upon the Court's reasoning that the Beech-Nut Packing Company's right to protection is limited to fraud and injury resulting from the unauthorized use of its trade-mark, trade name or label upon goods either identical with or belonging to the same class as the goods in which it deals. The reasoning of the court below substitutes a survey of the artificial boundary lines of an arbitrary system of classification of merchandise for an inquiry into the presence or absence of actual fraud and injury. The conflict between the mode of reasoning of the Third Circuit Court of Appeals and that of the Courts of Appeals of the Sixth and Second Circuits is as marked as the conflict between their conclusions.

A reason for review of the instant case additional to the conflicting rules of law in the different judicial circuits lies in the importance of the issue to the business interests of the country, and the interests of the consuming public.

The far-reaching effect of the ruling of the Third Circuit Court of Appeals, and the obvious fact that unscrupulous dealers in all lines of trade will be alert to invoke its protection for their fraudulent business practices, make the case at bar one that should not stand as an authoritative statement of the law in the absence of some absolutely compelling reason. The court below has found no such compelling reason for its conclusion that a fraud of this character is beyond the reach of a court of equity, and the reasoning in all other cases involving parallel states of fact leads infallibly to the opposite conclusion.

It is of vital importance to American business that the development of the law of unfair competition, which is protective of honest business, should not be checked

by the decision of the court below, a decision in violation of the principles of equity which have underlain the entire development of the law in this field.

Wherefore petitioner prays that a writ of certiorari be issued under the seal of this Court directed to the United States Circuit Court of Appeals for the Third Circuit, commanding said Court to certify and send to this Court a full and complete transcript of the record including all proceedings in said Circuit Court of Appeals in the case entitled: Beech-Nut Packing Company, Appellant, *versus* P. Lorillard Company, Appellee, No. 3282, to the end that this cause may be reviewed and determined by this Court, as provided by Section 240 (a) of the Judicial Code as amended by Section 1 of the Act of Congress of February 13, 1925, "To amend the Judicial Code, and to further define the jurisdiction of the Circuit Courts of Appeals and of the Supreme Court"; that the decree of said Circuit Court of Appeals in this cause be reversed by this Court, and that petitioner have such other and further relief as this Court may deem appropriate;

And your petitioner will ever pray.

BEECH-NUT PACKING COMPANY,

By BARTLETT ARKELL,

President.

CHARLES E. HUGHES,

WALTER A. SCOTT,

JAMES R. OFFIELD,

H. McCLURE JOHNSON,

Counsel for Petitioner.

UNITED STATES OF AMERICA, }
 STATE OF NEW YORK, } ss:
 COUNTY OF NEW YORK.

BARTLETT ARKELL, being duly sworn, says that he is president of Beech-Nut Packing Company, petitioner; that he has read the foregoing petition by him subscribed and knows the contents thereof, and that the facts therein stated are true to the best of his knowledge, information and belief.

BARTLETT ARKELL.

Sworn to and subscribed before me this 8th day of December, 1925.

[SEAL.]

ELEANOR F. CASEY,
Notary Public.

We hereby certify that we have examined the foregoing petition, and that in our opinion the petition is well founded, and that the case is one in which the prayer of the petitioner should be granted by this Court.

CHARLES E. HUGHES,
 WALTER A. SCOTT,
 JAMES R. OFFIELD,
 H. McCLURE JOHNSON.

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1925.

No. .

BEECH-NUT PACKING COMPANY,

Petitioner,

VS.

P. LORILLARD COMPANY,

Respondent.

**BRIEF IN SUPPORT OF PETITION FOR A WRIT OF
CERTIORARI.**

The facts relied upon in the foregoing petition are here stated more in detail and with foot-note references to the testimony of the witnesses, following which is an analysis of the conflicting cases in the Sixth and Second Circuits and the English cases mentioned in the petition.

Reference to Opinions Below.

The opinions delivered in the courts below appear:

Circuit Court of Appeals, 3rd Circuit: — Fed. —; Transcript of Record, Vol. V, pp. 308-319.

(Opinion and Decree Affirming filed September 11, 1925,—see Transcript, Vol. V, p. 318.)

District Court of the United States, District of New Jersey; 299 Fed. 834; Transcript, Vol. V, pp. 259-291.

The Facts.

Following is a statement of the facts in the case at bar. Although the opinion of the Court of Appeals does not contain a full statement of the facts, no issue of fact has arisen, and it is manifest from the Court's opinion that its decision turned upon the point of law upon which its ruling conflicts with the rulings of the Courts of Appeals of the Sixth and Second Circuits; namely, its ruling that in a trade-mark or unfair competition case a plaintiff has no legal remedy against a defendant who has appropriated the plaintiff's trade-mark, trade name, corporate name or label unless the defendant has used such mark, name or label in connection with commodities of the same class as those dealt in by the plaintiff.¹

¹ The District Court found that the P. Lorillard Company was justified in its use of the word "Beech-Nut" by reason of the fact that the word "Beechnut" had once been used on tobacco (but beginning years later than the adoption by Beech-Nut Packing Company's predecessor of its trade-mark "Beech-Nut") by the Weissinger Company and its successor, the Luhrman & Wilbern Company, the ownership of which the P. Lorillard Company had acquired in 1911. The Luhrman & Wilbern Company had ceased using the word "Beechnut" in 1910 owing to the absolute termination of any demand for the tobacco to which it had previously applied that word. This old brand had been completely forgotten in 1915 as shown by the fact that no ultimate consumer was found who even remembered that there ever had been such a brand in existence and only three or four dealers retained any memory of it. The Beech-Nut tobacco put out by the P. Lorillard Company in 1915 was in no sense a continuance of the discontinued Luhrman & Wilbern brand. The Lorillard Beech-Nut tobacco was a new mixture having a new flavor especially designed to meet the demand of the public for a flavor different from that of the old mixtures which no longer suited tobacco users, and the Lorillard Beech-Nut

The Beech-Nut Packing Company is well known throughout the United States as the producer of an extensive and constantly expanding line of commodities of the best quality obtainable.¹ It sells these commodities in packages, bottles or wrappers bearing the word "Beech-Nut" framed generally by a blue oval which also incloses a picture of a beech-nut cluster, and is itself surrounded by a red oval border.² The business was started in a small way in 1891 at Canajoharie, New York, and developed into a nation-wide industry. In 1912 the number of products extensively dealt in was forty-one and in the same year the company registered its Beech-Nut trade-mark for sixty-seven products which it had sold to a greater or less extent. Prior to the end of the year 1921, in which year the bill of complaint herein was filed, it had expended three million dollars in advertising its name "Beech-Nut," its vari-

label is essentially a reproduction of the Beech-Nut Packing Company's trade-mark and bears no resemblance to the long disused and forgotten Luhrman & Wilbern Beechnut label. The Court of Appeals ignored the Lorillard Company's claim of right based on the Luhrman & Wilbern label and decided the case solely upon the point of law discussed in this petition and brief.

¹ Barbour, Transcript, Vol. I, p. 781 *et seq.* A summary of products prepared from price lists of goods extensively sold since 1902 appears in Vol. VI of the Transcript, pp. 77 to 107. The testimony of all of the hundreds of witnesses for both parties shows the familiarity of the Beech-Nut Company's products to ultimate consumers throughout the country.

² Specimens of the Beech-Nut Packing Company's trade-mark and labels are presented on pages 163, 167 and 169 of Vol. VI of the transcript. Duplicates of these exhibits and of the Lorillard Beech-Nut scrap chewing tobacco and cigarette labels are attached to the last pages of this brief.

ety of goods, and the high quality of all its goods. In 1923 the number of products extensively sold was sixty. The principal product in volume of business is chewing gum; among the other products are hard candy, mints and fruit tablets put up in small packages sold largely on tobacco stands, peanut butter, condiments, conserves, beverages, ham, bacon and a large variety of food products. The Beech-Nut Packing Company does not deal in cigarettes or tobacco, though it has seriously considered doing so.¹

In the year 1915, at which time the Beech-Nut goods and trade-mark were known throughout the entire country as an expanding line of products of the highest quality, the P. Lorillard Company put upon the market a

¹ Following are references to the testimony of some of the witnesses who testify regarding the founding and early history of the Beech-Nut Packing Company: Vol. I, p. 827; Vol. IV, pp. 6 to 8.

The number and variety of products is shown in the summary of products at pp. 77 to 107 of Vol. VI.

At page 159 of Vol. VI there is a reproduction of the Patent Office certificate of registration in 1912 by the Beech-Nut Packing Company of its trade-mark for use on sixty-seven commodities.

The expenditures of the Beech-Nut Packing Company for advertising are shown by the testimony of Walter H. Lipe, who, in response to Q. 35, Vol. IV, p. 10, produced the tabulated statement appearing at page 55 of Vol. IV, and also by the testimony of Van Wie, Vol. I, p. 818, Qs. 6 to 9.

The total sales of the Beech-Nut Packing Company year by year from 1903 to 1921, and the total annual sales of Beech-Nut chewing gum from 1911 to 1921 are set forth on page 868 of Vol. 1 of the Transcript.

The Beech-Nut Packing Company's consideration of the question of including cigarettes in its line of products is described by F. E. Barbour, vice-president and manager of the company, Vol. I, pp. 785-786, Qs. 15, 16 and p. 792, X-Qs. 55 to 59.

brand of chewing tobacco of the kind known as "scrap tobacco," and adopted for this tobacco the name "Beech-Nut" and affixed to the packages containing it a label bearing the word "Beech-Nut" framed in a blue oval which also incloses a picture of a beech-nut cluster and is surrounded by red, all of these details corresponding closely to the label of the Beech-Nut Packing Company.¹ In 1921 the P. Lorillard Company put a new cigarette on the market upon which also it used the word "Beech-Nut" with an oval border and picture of a beech-nut cluster and the surrounding red.²

Petitioner's Beech-Nut chewing gum and hard candies, mints and fruit-drops are sold alongside of respondent's Beech-Nut scrap tobacco and Beech-Nut cigarettes in tobacco stores, drug stores, hotel and office-building lobbies, and wherever tobacco is sold. In groceries, delicatessens, general stores, variety stores, etc., all of petitioner's Beech-Nut products are displayed and sold alongside of respondent's tobacco products. The same wholesalers and jobbers handle and distribute the products of both. Thus there is the maximum opportunity for deception to result. Also it is apparent that merchandising tobacco products is in the direct and natural line of expansion of the Beech-Nut Packing Company's business.

The use of the Beech-Nut name and label by the P. Lorillard Company has caused the entire body of ulti-

¹ A photograph of the Lorillard Beech-Nut scrap tobacco package appears at page 161 of Vol. VI of the Transcript. A specimen of the wrapper is attached to the bill of complaint (Vol. I, p. 17) and a duplicate thereof is presented on page 34 of this brief.

² A specimen of the Lorillard Beech-Nut cigarette label with its translucent paper covering is mounted on page 1 of Vol. VI of the Transcript, and a duplicate thereof is inserted on page 36 of this brief.

mate purchasers, without a single exception so far as known or shown by the record, to believe that the Lorillard Beech-Nut tobacco and cigarettes are products of the Beech-Nut Packing Company. The cheap grade and inferior quality of the Lorillard Beech-Nut cigarettes have injured the business good-will of the Beech-Nut Packing Company, which heretofore has been universally known as a producer of commodities of the highest quality only; and the reputation and business of the Beech-Nut Packing Company have also suffered from the antagonism of that large class of people who are opposed to the use of cigarettes and tobacco and prejudiced against the Beech-Nut Packing Company by their belief that it is the producer of the Lorillard Beech-Nut cigarettes and chewing tobacco.¹

¹ Though the record contains the testimony of hundreds of witnesses there is but one instance of an ultimate consumer testifying that he was not caused by the Lorillard Beech-Nut labels to believe that the tobacco and cigarettes so labeled were part of the general line of Beech-Nut products and put on the market by the same manufacturer or merchant. This one consumer who was not deceived was given a package of the Lorillard Beech-Nut cigarettes by a Lorillard salesman (Transcript, Vol. II, pp. 194-195, Qs. 5, 6 and pp. 196-197, X-Qs. 1 to 9).

Following are references to the testimony of sixty-five of the witnesses for the Beech-Nut Packing Company who, as consumers or as proprietors of or salesmen in tobacco stores, drug stores, delicatessen stores, wholesale or retail groceries, or news or tobacco stands, either purchased, used or dealt in Lorillard Beech-Nut chewing tobacco or cigarettes in the belief that they were products of the Beech-Nut Packing Company or of the party who marketed the general line of Beech-Nut goods. In many instances the deception extended over periods of many months and in other instances over periods of several years: Transcript, Volume I, pages 56, 62-63, 68, 76, 77-78, 108, 120, 127, 131, 148-149, 167, 201-203,

The Decision.

Though other issues were discussed by the District Court, the Court of Appeals based its decision squarely upon its ruling that the P. Lorillard Company has a legal right to use the Beech-Nut name and label by reason of the fact that the Beech-Nut Packing Company had not used it on goods of the class to which tobacco was considered by the Court to belong.

Conflicting Cases in the Sixth and Second Circuits.

Following is an outline of the cases in the Sixth and Second Circuits which are referred to in the petition, and a comparison of those cases with the case at bar.

210-211, 228-229, 232-233, 237, 241, 263-264, 268-269, 276-277, 285-286, 310, 316-317, 318, 329-330, 334, 335, 336-337, 339, 340, 341, 342, 343-344, 376-377, 378-379, 387, 412-414, 418, 423-424, 437, 445, 470, 474-475, 479, 485-486, 491, 502-503, 550, 555-556, 560-561, 565, 612-613, 617-618, 622-623, 625-627, 628-629, 633 to 635 (five witnesses), 755-759; Volume V, pp. 97-98, 105-106, 113-114.

Many of the witnesses whose testimony is cited in these foot-notes were retailers and salesmen for retailers, and their own erroneous belief that the Lorillard Beech-Nut tobacco products were products of the Beech-Nut Packing Company naturally had the effect of confirming the deception of the ultimate purchasers. Following are references to the testimony of dealers who, being themselves deceived, innocently deceived their customers by express statement: Vol. I, pp. 277-278, Qs. 11, 12; Vol. I, p. 330, Q. 12; Vol. I, p. 334; Vol. I, pp. 412-413, Qs. 13 to 15; Vol. I, p. 419, Qs. 13, 14; Vol. I, p. 424, Qs. 11, 12; Vol. I, p. 759, Qs. 48, 49.

Following are references to the testimony of witnesses who, thinking that the Lorillard Beech-Nut cigarettes were products belonging to the general line of commodities produced by the Beech-Nut Packing Company, state

The Vogue Case in the Sixth Circuit.

Vogue Company v. Thompson-Hudson Co. et al., 300 Fed. 509; 6 Fed. (2nd) 875 (Circuit Court of Appeals for the Sixth Circuit, 1924-1925). The Vogue Company, publisher of the "Vogue" Magazine, claimed ownership of the word "Vogue" as a trade-mark, and also of a mark consisting of a large capital letter "V" having between its sides the figure of a woman, the latter mark being called by the plaintiff the "V-Girl." Both the word "Vogue" and the "V-Girl" mark were displayed on the magazine and on plaintiff's advertising literature.

either that they found the cigarettes inferior to the other Beech-Nut products, or that they never bought any more of the cigarettes after their first purchase: Vol. I, p. 51, Q. 11; Vol. I, p. 149, Q. 10; Vol. I, p. 202, Qs. 9 to 11; Vol. I, p. 237, Qs. 5 to 7 and p. 238, X-Qs. 12 to 14; Vol. I, p. 269, Q. 15; Vol. I, p. 339, bottom of page; Vol. I, p. 340, bottom of page; Vol. I, p. 341, bottom of page; Vol. I, p. 286, Qs. 11, 12; Vol. I, p. 479, Qs. 9 to 12; Vol. I, p. 486, Qs. 8, 9; Vol. I, pp. 555, 556, Qs. 8 to 11; Vol. V, pp. 113-114. The inferiority of the Lorillard Beech-Nut cigarettes is also shown by the testimony of J. J. Creevan, Vol. I, p. 136, Qs. 7, 8.

Following are references to the testimony of witnesses who because of their opposition to the use of cigarettes or chewing tobacco became antagonistic to the Beech-Nut Company because of their belief that it was the producer of the Lorillard tobacco products: Volume I, pp. 181-185; p. 441, Qs. 3 to 9; pp. 244-245, Qs. 11 to X-Q. 17; pp. 771-774. F. M. Fairfield describes the activities of the International Anti-Cigarette League, Transcript, Vol. I, p. 636.

Following are references to the testimony of thirty-one of the witnesses called by the Lorillard Company, from each of whom the fact was elicited that he had observed instances of the deception of the purchasing public caused by the Lorillard Company's use of the Beech-Nut trade-mark: Transcript, Volume II, pages 102 to 103; 134; 170 to 171; 189, 191 to 192; 205 to 207; 211;

The defendants sold women's hats, to each of which was affixed a label bearing the words "Vogue Hats" and a mark consisting of a large capital letter "V" having between its sides the representation of a woman's head. The Vogue Company did not deal in hats. The Court found that the use by defendants of the mere word "Vogue" violated no right of plaintiff for the reason that the word is descriptive, but ordered an injunction restraining the defendants from using the "V-Girl" mark, and held the use of that mark by the defendants to constitute unfair competition. Upon the subject of unfair competition the Court said that the term "unfair competition" was merely a convenient name for the doctrine that no one should be permitted to sell his goods as those of another, but that "there is no fetish in the word 'competition'." The Court found that "the invocation of equity rests more vitally upon the unfair-

215 to 216; 241, 244 to 245; 254, 255; 318; 374 to 375; 560; 578 to 580; 621 to 622; 641 to 642; 723, 738; 767 to 768; 774 to 775; Volume III, pages 838 to 839, 842 to 843; 902 to 903; 993; 1024 to 1025; 1042; 1073; 1094 to 1095; 1179; 1227; 1259. All of these Lorillard witnesses referred to in the preceding list of page numbers, with the exception of five who were Lorillard salesmen, were either owners of or employees in tobacco stores, drug stores or other stores selling tobacco. One of the Lorillard salesmen, Burgeson, not only admitted his knowledge of the deception caused by the Lorillard Company's use of the Beech-Nut name, but said that was natural on account of the similarity of name, but that the confusion was "not as much as we did expect" (Transcript, Vol. II, p. 775, X-Q. 25). Along the same line is the testimony of Bieringer, another Lorillard witness (Vol. II, pp. 45 to 50, X-Qs. 13, 23 to 26, 32, 36 to 42).

The name "Lorillard" is almost unknown to the consuming public as an identification of particular tobacco products. Cigarettes, cigars and tobacco are known to

ness," and illustrated its meaning by stating that "If B. represents that his goods are made by A., and damage therefrom to A. is to be seen, we are aware of no consideration which makes it controlling whether this damage to A. will come from market competition with some article which A. is then manufacturing or will come in some other way" (300 Fed. 512). The articles involved in the Vogue Company case—a monthly magazine and women's hats—are as distinct and different as the goods involved in the case at bar—the Lorillard cigarettes and chewing tobacco and the Beech-Nut Packing Company's chewing gum, hard candies, peanut butter, condiments and food products. While the idea of fashion may be associated with both the "Vogue" Magazine and Vogue hats, the two articles are not dealt in by the same wholesalers or jobbers, and are not sold in the same retail

the public by their brand names, such as the names "Murad," "Egyptian Deities" and "Moguls" for cigarettes and "Honest," "Union Leader" and "Beech-Nut" for chewing tobacco. Ordinarily the public does not notice or identify the product by the manufacturer's name. Following are references to the testimony of fifteen Lorillard witnesses from whom evidence on this point was elicited, and to the testimony of seventeen of the witnesses for the Beech-Nut Packing Company who testified to the same effect: Lorillard witnesses—Transcript, Volume II, pages 88-89; 234-235; 263, 266; 282-284; 292-293; 490-491; 657-658; 685; Volume III, pp. 798; 809; 824-825; 843-844; 855; 863; 869, 871, 877; Beech-Nut Packing Company's witnesses—Volume I, pages 53; 69; 169; 173, 175; 443; 459; 487; 493; 497; 515; 542; 552; 669; 689; 698; 726; 763.

The P. Lorillard Company does not even put its own name or even the word "Lorillard" on many of its leading brands (Transcript, Vol. V, pp. 190-192; pp. 197-198; pp. 223-224; pp. 226-227).

Following are references to the testimony of retail dealers in tobacco and salesmen for the Beech-Nut Packing Company who in the course of their business ob-

stores unless it be in a few large department stores where practically everything is sold. In the case at bar the goods of the two parties are handled by the same jobbers and wholesalers, and are displayed and sold alongside of each other in retail grocery stores, delicatessen stores, tobacco stands of all kinds, drug stores, news stands, etc. The controlling fact, however, is that in both cases the purchasing public was deceived with resulting diversion of and injury to plaintiff's business good-will. Furthermore, in the case at bar the word "Beech-Nut" is an arbitrary word, and the Court's ruling in the Vogue Company case exempted the mere word "Vogue" from its injunction only because the word "Vogue" is descriptive instead of being arbitrary. The Court's reasoning in the Vogue Company case would have led to an injunction forbidding the use of the mere

served wide-spread deception of the purchasing public caused by the Lorillard Company's use of the Beech-Nut trade-mark: Vol. I, p. 32, Q. 9 and p. 33, Q. 17; p. 81, Qs. 12 to 14; p. 90, Q. 10; p. 99, Qs. 12, 13; p. 108, Q. 7; p. 120, Q. 10; p. 136, Qs. 8, 9; pp. 159, 160, Qs. 5 to 8; pp. 251, 252, Qs. 18 to 20; pp. 277, 278, Qs. 11, 12; p. 311, Qs. 15 to 18; pp. 323, 324, Qs. 9 to 11; p. 330, Q. 12; p. 334; pp. 345 to 349; pp. 360 to 363; p. 370; pp. 374 to 375, Qs. 4 to 8; pp. 380 to 382, Qs. 8 to 19; pp. 391 to 394, Qs. 4 to 16; pp. 399, 400, Qs. 3 to 13; p. 419, Qs. 13, 14; pp. 528, 529, Qs. 29 to 35; pp. 570, 571, Qs. 5 to 8; pp. 612, 613, Qs. 8 to 10; p. 618, Qs. 12 to 15; pp. 731 to 733, Qs. 20 to 30.

The deception caused by the Lorillard Company's use of the Beech-Nut trade-mark extended to the editors of prominent city newspapers, the Quarter Master Department of the United States Army and the promoters of public exhibitions and conventions of the tobacco industry. Beech-Nut Exhibit 12 (Transcript, Vol. VI, pages 7 to 53) consists of correspondence showing the deceit referred to and letters from dealers in tobacco to the Beech-Nut Packing Company ordering shipments of Beech-Nut cigarettes and chewing tobacco.

word "Beech-Nut" as well as the use of that word when printed in the distinctive manner and with the distinctive surroundings employed by the Beech-Nut Packing Company.

The Penslar Case in the Sixth Circuit.

Peninsular Chemical Company v. Levinson et al., 247 Fed. 658 (Circuit Court of Appeals, Sixth Circuit—1917). The Peninsular Chemical Company dealt in medicines, drugs, and drug store supplies and sundries, under the trade-mark "Penslar," a contraction of the word "Peninsular." It conducted its business through a chain of 3500 drug stores which were known as Penslar Drug Stores. The Peninsular Chemical Company did not deal in cigars or tobacco. Defendant, Samuel Levinson, manufactured and sold cigars which he marked with the word "Penslar" and "Made by the Penslar Co.", thus conveying to the purchasing public the erroneous belief that the cigars were made by the Peninsular Chemical Company and that they were a part of the line of goods sold by the Penslar Drug Stores. The evidence showed that one of the defendants, S. W. Levinson, had expressly represented that the cigars were made by the Peninsular Chemical Company, but it did not appear that the other defendant, Samuel Levinson, had made such express misrepresentations. The Court held that the fact of misrepresentation was fully established by the mere marking of the cigars with the word "Penslar" even though unaccompanied by express misrepresentation. The Court ordered an injunction restraining defendants from representing that their cigars were plaintiff's product and from using in connection with such cigars the word "Penslar" as previously used by them. *The Court expressly refrained from considering the*

argument that since the Peninsular Chemical Company did not deal in cigars there was no competition at all between the parties and hence no unfair competition, and based its decision upon the proposition that "the good-will of a business and the good reputation of an output, when considered in connection with the business itself, are a species of property which may not be destroyed with impunity," and the Court added that it knew "of no principle which will forbid malicious destruction of this kind to a competitor and permit it to a stranger" (247 Fed. 661).

The Court of Appeals for the Sixth Circuit finds appropriation of and injury to business good-will a sufficient reason for the intervention of equity. The Court of Appeals for the Third Circuit in the case at bar finds no illegality in or remedy for such fraud unless it is effected by the sale of a commodity of a particular class, the bounds of the class being dependent solely upon the arbitrary selection of some particular system of classification and totally unrelated to the possibility or fact of fraud.

The identity of all of the essential facts in the Peninsular Chemical Company case and the case at bar is complete. The word "Penslar" and the word "Beech-Nut" are arbitrary words; each was used as a trade-mark; each is a trade name, the former denoting the Penslar goods and the Penslar Drug Stores and the latter the Beech-Nut Packing Company's business and line of goods; the use of each by a stranger caused deception of the purchasing public and diversion of and injury to the good-will of the business in connection with which the word was originally used. No distinction between the Peninsular Chemical Company case and the case at bar is found in a comparison of the goods dealt in by the parties to the two suits. The relation between the Levinsons' cigars and the medicines and drug store supplies

dealt in by the chemical company is no closer than or different from the relation between the Lorillard cigarettes and tobacco and the Beech-Nut Packing Company's chewing gum, packaged hard candies, peanut butter and food products. In each case the goods of the two parties are displayed in the same retail stores, and in each case the plaintiff was dealing in an extensive line of products which the purchasing public knew was being extended from time to time to include new products. There is no distinction between the Peninsular Chemical Company case and the case at bar other than in the conflicting principles of law applied to essentially identical facts.

The Aunt Jemima Case in the Second Circuit.

Aunt Jemima Mills Co. v. Rigney & Co., 247 Fed. 407 (Circuit Court of Appeals for the Second Circuit—1917). In this case the plaintiff, Aunt Jemima Mills Co., had used and registered in the Patent Office a trade-mark for use on packages of self-rising flour. The most conspicuous features of the trade-mark were the words "Aunt Jemima" and a picture of a colored woman. At a later date the defendant, Rigney & Co., started to use and registered in the Patent Office the same trade-mark for syrups and sugar creams. The Aunt Jemima Company asked that Rigney & Co. be enjoined from using the Aunt Jemima trade-mark. While self-rising flour and syrup are both food products, and belong to the same class, if the use to which articles are put be made the basis of classification, the two commodities are not competitive; one cannot be substituted for the other and neither can be palmed off as the other.

The Court enjoined Rigney & Co. from using the Aunt Jemima trade-mark for syrup. This ruling conflicts with the decision of the Third Circuit Court of Appeals in the

instant case not only in its adoption of the principle that the law forbids deceptive use of a trade-mark or label upon a non-competing commodity, but there is a conflict between the underlying principles upon which the two Courts based their conclusions. The Court of Appeals for the Third Circuit ruled that the Lorillard Company was within its rights in using the Beech-Nut trade-mark for cigarettes and tobacco because cigarettes and tobacco belong to a different class of merchandise from the goods dealt in by the Beech-Nut Packing Company. While the Court of Appeals for the Second Circuit referred to the fact that "syrup and flour are both food products," it did not base its injunction upon that fact, but upon the fact that "obviously the public, or a large part of it, seeing this trade-mark on a syrup would conclude that it was made by the complainant" (247 Fed. 410). The Court said that perhaps the public might not have thought that flatirons bearing the Aunt Jemima trade-mark were products of the Aunt Jemima Company, thus clearly showing that the Court considered deception of the public the ruling fact regardless of whether the deception took place in connection with syrup, or flatirons, or any other article or commodity. This involves the basic difference and conflict between the Second and Third Circuit Courts of Appeals. The Second Circuit Court of Appeals finds and enjoins fraud in deception of the public accompanied by diversion of and injury to the plaintiff's business good-will, regardless of the nature of the commodity through the deceptive sale of which the fraud is accomplished. Under precisely the same circumstances the Third Circuit Court of Appeals finds no remediable fraud unless the plaintiff and defendant deal in goods of *the same class*. In the Second Circuit the bounds of the remediable wrong are the bounds of the actual fraud. In the Third Circuit the

bounds of the remediable wrong are the bounds of a vaguely and artificially defined "class" which may or may not be coincident with the bounds of the actual fraud and injury.

The Law in England.

The English cases which we have referred to as in harmony with the law in the Sixth and Second Circuits were discussed by the Court of Appeals for the Second Circuit in the opinion in the Aunt Jemima case (247 Fed. at pages 410 to 412), and reference to them is also found in the opinion of the Court of Appeals for the Sixth Circuit in the Peninsular Chemical Company case (247 Fed. at page 662). Following is a brief statement of the facts and of the relief granted by the court in each of the English cases:

In *Eastman Company v. Kodak Cycle Co.* (15 Reports Patent Cases, 105), the plaintiff manufactured cameras and the defendant made bicycles. The plaintiff did not make or deal in bicycles. The Court enjoined the defendant from carrying on business under the name "Kodak Cycle Company, Limited," or any name comprising the word "Kodak" that would be likely to mislead the public into the belief that defendant company was the same as or connected with the plaintiff company, and also enjoined the defendant from selling its cycles as Kodak cycles or selling other goods designated by the word "Kodak."

Dunlop Pneumatic Tyre Co. v. Dunlop Lubricant Co. (16 Reports Patent Cases, 12), involved the right of the plaintiff, a manufacturer of bicycle tires, rims, pumps, etc., to an injunction restraining the defendant, who dealt in oils and lubricants for bicycles, from using the word "Dunlop." Plaintiff had never dealt in oils or lubri-

cants. The use of the word "Dunlop" by defendant was held to be deceptive and was enjoined.

In *Valentine Meat Juice Co. v. Valentine Extract Co.* (17 Reports Patent Cases, 673—Court of Appeal) plaintiff used the word "Valentine" upon liquid meat juice for medicine, and defendant used the same word on beef extract in capsule form used for more general food purposes. An injunction was granted.

Dunlop Pneumatic Tyre Co. v. Dunlop-Truffault Cycle & Tube Manufacturing Company (12 Times Law Reports, 434). In this case a preliminary injunction was asked to restrain the defendant from using the name "Dunlop" as a part of its corporate style. Plaintiff manufactured pneumatic tires known as "Dunlop tyres" and defendant was a manufacturer of bicycles and steel tubes used in the manufacture of bicycles. Plaintiff did not make or deal in bicycles or steel tubes. An injunction was granted, Mr. Justice Chitty holding that the name "Dunlop" had been chosen by defendant to confuse the public and to make the public think that the defendant company was connected with the plaintiff company.

In *Premier Cycle Company v. Premier Tube Company* (12 Times Law Reports, 481) plaintiff made and sold bicycles, and incidentally made and used in its bicycles a special type of tubing formed of metal wound round helically. Defendant was a manufacturer of cold-drawn weldless tubes and stated that it had no intention of competing with the plaintiff in the manufacture of bicycles. An injunction was granted.

In *Walter v. Ashton* ([1902] 2 Chancery, 282) the defendant was enjoined from calling its bicycle "The Times" bicycle and leading the public to believe that it was made by or for or had any connection with the newspaper of that name.

Previous Decisions of Third Circuit Court of Appeals.

In each of two earlier cases the Third Circuit Court of Appeals has enjoined the defendant from conducting its business under a name closely resembling the plaintiff's corporate name notwithstanding that the parties dealt in goods of different classes. Following are the cases referred to:

Akron-Overland Tire Co. v. Willys-Overland Co.,
273 Fed. 674 (June 13, 1921);

The Akron-Overland Tire Company, defendant, was engaged in the business of retreading and selling tires. The Willys-Overland Company makes and sells complete automobiles but has never made or dealt in tires, and equips its automobiles with tires made by others. The court enjoined the Akron-Overland Tire Company from using the word "Overland" in its name, in the transaction of its business and in the threatened sale of its stock and securities.

*Howard Wall, doing business under the name
Rolls-Royce Tube Co. v. Rolls-Royce of Amer-
ica, Inc.*, 4 Fed. (2nd) 333. (March 5, 1925.)

Howard Wall, defendant, dealt in radio tubes under the name "Rolls-Royce Tube Co." Rolls-Royce of America, Inc., makes and sells automobiles and does not make or deal in radio tubes. The court enjoined Wall from using the name "Rolls-Royce."

There was no competition between the goods dealt in by plaintiff and defendant in either the Overland or the Rolls-Royce case; and upon plain reasoning these cases, decided by the Third Circuit Court of Appeals, appear to be complete authority for the relief asked of the same court in the instant case.

In its opinion in the case at bar the Court of Appeals

makes no mention of either the Overland or the Rolls-Royce case; and the court in no way distinguishes the instant case from those cases. It refers in its opinion to *Rosenberg Bros. & Co. v. John F. Elliott* (— Fed. —; not yet reported), a trade-mark and unfair competition case, in which the opinion was handed down by the Third Circuit Court of Appeals on September 11, 1925, the same day as the opinion in the instant case. That court in the instant case quotes a definition of trade-mark property from the *Rosenberg v. Elliott* case. In the same opinion in the Rosenberg case appears the following passage:

“We pause to note that these cases [Overland and Rolls-Royce cases] are not authority on the law of trade-mark infringement at all, for each was tried and decided on the single issue of unfair competition, and then not unfair competition in the sale of goods but in the unfair appropriation and use of a competitor’s trade-name with the intention, of course, thereby to profit in the sale of goods of a related character. Such an act is not infringement of a trade-mark but is a trespass of the same nature as is committed by one who applies another man’s name to his own goods. It is a wrong which equity will enjoin even when the goods of the two men do not strictly enter into competition.”

From the foregoing quotation it appears that the court found the vice in the Overland and Rolls-Royce cases to lie in the defendants’ appropriation of the plaintiffs’ names as their own corporate or firm names, and intended to exclude from the doctrine of the Overland and Rolls-Royce cases any case in which the defendant had not appropriated the plaintiff’s name as a part of its corporate or firm name.

If the denial of relief in the instant case was predicated upon the fact that the Lorillard Company did not adopt the word “Beech-Nut” as a part of its corporate name,

then the denial of relief in the instant case rests upon the proposition that the corporate and trade name of any established business may be put to deceptive use upon non-competing commodities by any stranger who does not use that name as his own corporate or firm name, however extensively he may make deceptive use of it upon his goods or in his advertising. Such a distinction ignores the fraud, and rests the judicial reasoning entirely upon a refined distinction regarding the manner of use of the word by which the fraud is effected. This distinction would accentuate the conflict between the Third Circuit Court of Appeals and the decisions in the Sixth and Second Circuits. In neither the Penslar nor Vogue case nor the Aunt Jemima case was the injunction restricted to the defendant's use of the plaintiff's trade-mark word or trade name as a part of the defendant's corporate or firm name.

Conclusion.

Although the court below in its opinion in the case at bar refers (Transcript, Vol. V, p. 315) to *Vogue Company v. Thompson-Hudson Company* and *Aunt Jemima Mills Co. v. Rigney*, and states that there are cases in which redress may be granted in the absence of direct competition between the goods dealt in by the plaintiff and defendant, this statement is followed by and applied in a paragraph (Transcript, Vol. V, p. 316) in which the Court reasoned that the case at bar does not present facts establishing a right to relief because there is no direct competition between the goods dealt in by the P. Lorillard Company under the Beech-Nut trade-mark and the goods dealt in by the Beech-Nut Packing Company. *The court below made no mention of the Penslar case.* The conflict of law involved in the decisions in the case at bar and the

cases in the Sixth and Second Circuits is conclusively shown by the Court's failure to distinguish the case at bar from the Sixth and Second Circuit cases other than by assigning a legal effect to the absence of direct competition directly opposite to the effect given to that fact in the Sixth and Second Circuits. In both the case at bar and the Second and Sixth Circuit cases there was deception of the purchasing public and resulting diversion of and injury to good-will and reputation. In the case at bar the absence of direct competition was held to bar the grant of relief. In the Sixth and Second Circuits the absence of direct competition was held to be no reason for refusing relief for the diversion of and injury to good-will and reputation. The Court makes no explanation of its conclusion that facts which constitute an infraction of law in other circuits do not violate the law in the Third Circuit. The conclusion is irresistible that the law as established in the Third Circuit in the case at bar conflicts with the law as interpreted and applied in the Sixth and Second Circuits.

Respectfully submitted,

CHARLES E. HUGHES,

WALTER A. SCOTT,

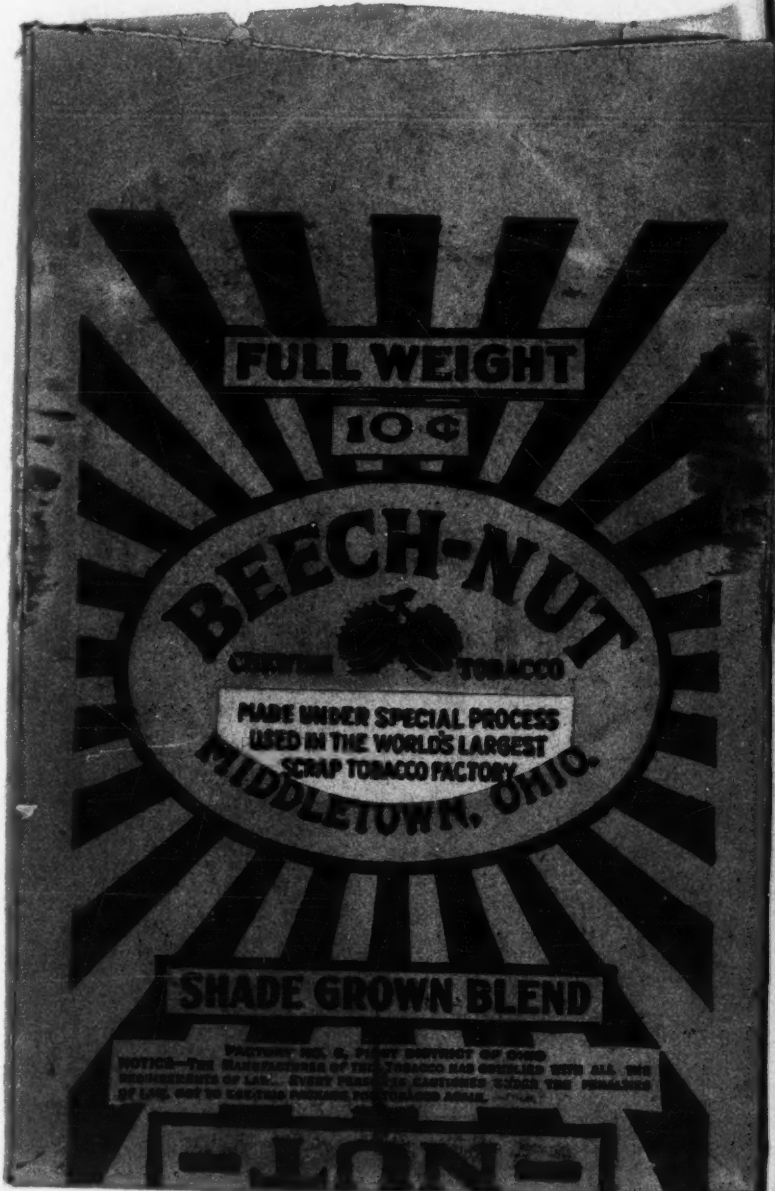
JAMES R. OFFIELD,

H. McCLURE JOHNSON,

Counsel for Petitioner.

December, 1925.

APPENDIX: SPECIMENS OF LABELS.



Lorillard Beech-Nut scrap tobacco label.

First used in 1915.

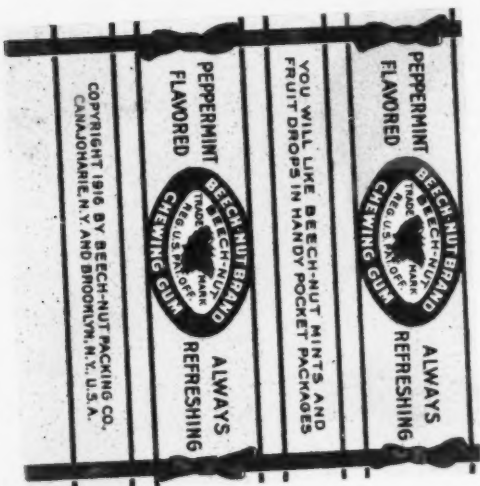


**Beech-Nut Packing Company's standard
Beech-Nut label.**

**Used on great variety of products.
Essential features used since about 1891.**



Lorillard Beech-Nut cigarettes label.
First used about 1931.



Beech-Nut Packing Company's Beech-Nut labels.
Used on goods sold largely on tobacco stands.